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**Disempowering Parents:  
The Erosion of Parental *Mana*  
With Particular Reference to  
The Parents  
of  
*at risk* Children and Young Persons**

by  
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## Abstract

Over the last one hundred and fifty years the treatment and status of children and young persons in New Zealand has moved from a position of near absolute parental (paternal) authority over children and a state largely uninvolved in the conditions of childhood, to a position which increasingly acknowledges children and young persons as individual possessors of rights. The parent-child relationship has become progressively more governed and monitored by the state, which now intervenes in many previously private areas of family life. This shift has been motivated by growing concern regarding the treatment and status of children. Legislative changes throughout the period under review reflect a gradual improvement in both treatment and status, with the earlier legislation concerned to promote the protection of children, and the more recent legislation reflecting current notions of children as citizens.

The elevation of children and young persons necessarily entailed adjustments to the previous authority, rights and autonomy of parents. Accompanying this has been an associated, though largely unintended, denigration of the credibility, competence and beneficence of parents, emanating from the view of parents as causes of the problems of childhood. These constitute an erosion of parental *mana* that significantly affects parents' capacity to fulfill the obligations and responsibilities of parenthood. Poor perceptions of parents have entered the public domain and have been exacerbated by aspects of the constantly changing social and political context, leaving parents marginalised and disempowered. Current legislation, informed by New Right ideology emphasising individual responsibility, firmly places responsibility for children with parents and extended family. The family empowerment ethos of the legislation is undermined in the implementation process, however, as a result of the frequent failure to allocate adequate resources to families and communities.

The consequences are particularly pertinent for families whose children are engaged in *at risk* behaviour. The practical effects of these changes in the daily lives of thirteen families are examined here through the analysis of the lived experiences of the families. The parents' experiences demonstrate the ways in which legislation and its implementation combine with contextual factors to leave parents in an untenable position. It is contended that parental *mana* has been progressively eroded to the point where it is no longer commensurate with their parental responsibilities.

# *DEDICATED*

*to my parents*

*Ann and the late Max Campbell*

*whose own dedication to their children  
provides an exemplar to which we  
might all aspire.*



## ACKNOWLEDGMENTS

The nature of the research process is inherently lonely, since it seeks to explore previously uncharted waters. There is no one with whom to navigate the currents, breakers and rips which occupy the researcher's particular piece of ocean. Inhabiting this ocean are the parents who shared their experiences with me in hopes of assuring calmer waters for those who follow. Through their stories it is possible to plumb the depths of this ocean and, eventually, to develop an appreciation of the resilience of those who must swim against the current for a time. Academically, their stories provide the platform from which the research can proceed and their contribution is therefore indispensable. Personally, their stories provide an undertow which draws me relentlessly forward, ever conscious that their stories need to be heard and heeded.

The thesis process, by contrast, provides a range of navigational and buoyancy aids in the form of professionals, colleagues, friends and family. My survival during the past three and one half years owes much to the efforts and understanding of these people. Foremost amongst them is my chief supervisor, Dr Patrick Day, who, as harbour master, guided me through both the academic and administrative waters. While his experience and wisdom were invaluable, most remarkable of all was his intuitive sense of which buttons to press - and when. As sonar and second supervisor, Dr Pahmi Winter, provided me alternately with something upon which to bounce my thoughts and with navigation lights to brighten my darker moments in the water. Within the Department there was also a range of flotation devices which assisted a sometimes near-drowning researcher in both personal and professional capacities at different stages in the process - Dr Ted Ninnes, Assistant Professor David Swain, Dr Mary Finlayson, Judy Small and Tonya Russell - all of whom assisted in keeping the wind in my sails and my bow on course.

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## TABLE OF CONTENTS

<b>Abstract</b>	<b>ii</b>
<b>Dedication</b>	<b>iii</b>
<b>Acknowledgements</b>	<b>iv</b>
<b>Table of Contents</b>	<b>v</b>
<b>Abbreviations</b>	<b>vii</b>
<b>Glossary</b>	<b>ix</b>
 <b>CHAPTER ONE</b>	
<b>Children, Parents and Problems</b>	<b>2</b>
The private faces of the parents	3
The role of the state	5
An ecological perspective	8
A sociology of parenthood	9
Addressing the research	15
Chapter summaries	16
 <b>CHAPTER TWO</b>	
<b>Methodology</b>	<b>36</b>
The overall approach	36
Choosing the approach	40
Bias in the research process	42
Choosing the topic	48
The interpretive dimension	49
Selection of participants	50
General demographics	53
The interviews	54
The data	57
The critical dimension	60
Conclusion	62
 <b>CHAPTER THREE</b>	
<b>From Invisibility to Advocacy - the Historical Ascendancy of Children's Rights and its Repercussions for Parents</b>	<b>64</b>
Children as chattels, parents as owners	65
Children as protected persons, parents as potential threats	68
Children as social capital, parents as risks to the investment	73
Children as psychological beings, parents as emotional trauma	80
Children as citizens, parents as equals	86
Conclusion	90
 <b>CHAPTER FOUR</b>	
<b>Changes in legislation, changes in ideology - effective empowerment?</b>	<b>92</b>
Causes and consequences of the 1974 Act	92
The 1974 legislation	95
New legislation, old habits and the power of the professionals	97

Amendments - the principle in favour of the family Group	99
Family empowerment and the New Right	101
Culture, education and health	104
Child welfare and change	109
Residential and foster care	110
The shift to family solutions	115
Conclusion	120
<b>CHAPTER FIVE</b>	
<b>Current Legislation, its Formulation and Substance</b>	<b>121</b>
The protracted path to reform	122
The Children, Young Persons and their Families Act 1989 –	
Aims, Objects and Principles	127
Definition of care and protection cases	132
Youth justice cases	134
Family group conferences	135
The Co-ordinator's role	137
Procedures where FGCs fail	139
Invoking the Act – parents	141
Invoking the Act - children and young persons	142
Disposition of youth justice cases	144
Care and Protection Resource Panels	147
Office of the Commissioner for Children	149
Conclusion	151
<b>CHAPTER SIX</b>	
<b>Parents' Experiences of Current Policy and Practice</b>	<b>153</b>
An Exception	153
The private faces of Nita's and Hamish's families	155
Nita's family	156
Hamish's family	157
Discerning themes and generating theories	159
Definitions	161
Early problems and avenues of assistance	164
Official avenues of assistance	173
Conclusion	184
<b>CHAPTER SEVEN</b>	
<b>Interacting with Child Welfare Professionals</b>	<b>186</b>
Accessing CYF assistance	187
Initial contact with CYF	188
Access criteria	190
Defining at risk behaviours	193
Extended contact with the professionals	194
Accessing CYF – children and young persons	197
Problems with privacy	200

The advantages of greater knowledge	205
Conclusion	209
<b>CHAPTER EIGHT</b>	
<b>Disempowerment of parents - and an explanatory theory</b>	<b>211</b>
Parental expectations	212
Information on rights	213
Confusion and misinformation	215
Further sources of disempowerment	221
Parents' assessments of assistance	228
Grounding a theory	235
<b>CHAPTER NINE</b>	
<b>Rights, conflicts and eroded <i>mana</i> - intentions and reactions</b>	<b>240</b>
Concepts of family and the New Right	241
The focus on rights	245
Equality revisited	250
Rights and responsibilities	252
Repositioning the parties	254
Legalism – the changing power relationships among children, parents and the state	256
Advocacy for Children and the Reactive Dangers	259
Child Abuse Initiatives and the Consequences for Parents	264
Mediated influences on parental <i>mana</i>	270
Conclusion	272
<b>CHAPTER TEN</b>	
<b>Parenting <i>at risk</i> children and young persons - a sociological perspective</b>	<b>275</b>
Aligning oppositional images of the parents	276
Legislative influences	277
Implementing the legislation	280
The influence of the professionals	281
The historical dimension of child welfare	284
Advances in ensuring protection and autonomy	287
The changing social context	290
The cumulative effects of context	292
Future directions	294
<b>Bibliography</b>	<b>300</b>
<b>Appendices</b>	<b>320</b>
Interview Subjects' Information Sheet	320
Consent Form	322
Application for Ethical Approval	323
Interview Question Guide	324

## ***Abbreviations***

ACORD	Auckland Committee on Racism and Discrimination
CYF*	Child, Youth and Family
CYPFA	Children, Young Persons and their Families Agency
CYPS	Children and Young Persons Service
DSW	Department of Social Welfare
DPB	Domestic Purposes Benefit
FGC	Family Group Conference
IYA	Independent Youth Allowance
IYC	International Year of the Child
NSAD	National Society on Alcoholism and Drug Dependence
SASH	School Attendance Service Hamilton
SPUC	Society for the Protection of the Unborn Child
UNCROC	United Nations Convention on the Rights of the Child
YELP	Youth Law Project

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\* CYF, CYPFA and CYPS all refer to the same basic child welfare entity, established under the 1974 Children, Young Persons Act, but undergoing a series of restructurings and renaming over time.

## Glossary

*at risk* - subject to, or indulging in behaviours which jeopardise their own or others' physical, mental, emotional or social wellbeing. The term encompasses more than, and is therefore preferable to, alternatives such as delinquent, unlawful, antisocial or uncontrollable. It is commonly used by those in the welfare sector to refer to individuals or families who are *at risk* of negative outcomes from a variety of factors such as poverty, poor housing, family dysfunction or lack of support networks. While this understanding is accepted here, the term is used in a narrower sense for the purposes of this project.

*Child/children* - under current New Zealand legislation, childhood continues until the age of fourteen, though the legislation itself does not draw the distinction between children and young persons at times. The paramountcy of the *best interests of the child* is one such example, since it is clearly intended to encompass also the best interests of young persons. Child(ren) is understood in this thesis by its legal prescription, though the term is sometimes used in juxtaposition to *parents* for the sake of form. The historical chapters generally refer to children as inclusive of young persons, since the legal distinction was not enacted until 1974. Where the distinction between children and young persons is important - for instance, where children are treated differently to young persons - the distinction has been made. This applies in particular to the analysis of legislation and practice since 1974.

*Family* - undefined in the current legislation, in favour of "family group", allowing recognition of a broad range of family forms and structures, including extended family. In regard to children and young persons, membership of a family group is premised on the existence of a biological or legal relationship, or strong psychological attachment. In this research, *family responsibility* is deemed to apply primarily to parents, since it clearly cannot apply to children and for extended family any acceptance of responsibility is voluntary, rather than legally prescribed.

*Fono* (Pacific Island) - meeting, gathering.

*Hapu* (Maori) - sub-tribe.

*Hui* (Maori) - meeting, gathering.

*Iwi* (Maori) - tribe, people.

*Mana* (Maori) - of sufficiently common usage to warrant inclusion in various English dictionaries this Maori term (which is also associated with other Polynesian cultures) is defined as "power; authority; prestige" (Concise Oxford Dictionary, p.719). The word is also defined as "a concept of a life force ... associated with high social status and ritual power" (Collins English Dictionary, p.943). It is most frequently used in New Zealand to refer to the degree of standing of particular individuals within a community, indicating a quantitative aspect to the word. Thus great *mana* indicates and requires high standing, such as that associated with *kaumatua* (leaders or elders). By definition then, there are gradations implicit in the concept. Improper behaviour by an individual will reduce his/her *mana*. Failure (by word or deed) by others to accord adequate deference to an individual with great *mana* constitutes an insult and implicitly and explicitly reduces *mana*. Similarly, corrective action to restore *mana* is possible, such as a public apology by those who have acted in ways which eroded *mana* in the past, as was done at the government

level in regard to the actions of the state or its representatives during the colonisation process. The concept therefore accommodates the internal and the external, the private and the public, the physical and the spiritual.

*Maatua Whangai* (Maori) - literally, foster parent, but refers in this work to a specific community programme established in 1983 and run jointly by the Departments of Social Welfare and Maori Affairs. Initially instituted for the purpose of obtaining more Maori foster parents, the programme evolved into a community scheme aimed at assisting Maori youth and their families - eventually independent of state direction as control was passed to *iwi*.

*Parent* - includes step-parents under the current legislation; refers to any person with custody rights in regard to a child or young person. Custody confers the right to possession and imposes a duty of care. Guardianship does not imply custody, though it confers rights in regard to decision-making concerning the child or young person.

*Tangata whenua* (Maori) – literally, the people of the land, the term refers to the Maori people of the New Zealand.

*Whanau* (Maori) - family or extended family; the term is used, though not defined, in the current legislation.

*Young Person* - defined in the present legislation as a boy or girl aged fourteen to sixteen inclusive, but not applicable to any person within this age range who is, or has been, married. The attainment of the seventeenth birthday does not confer full adult status, the age of majority being set at twenty years. Offenders aged seventeen or more are tried in the adult court and fall outside the jurisdiction of the Children, Young Persons and their Families Act, 1989. Guardianship Orders, however, pertain until the age of majority.

## CHAPTER ONE

### Children, parents and problems

The Court sitting is a sequel to events in a comfortable home in a quiet street in one of Hamilton's better suburbs some weeks earlier. In the dock sits a slightly built young blonde woman of sixteen years. She faces charges which include the kidnapping and attempted murder of an elderly man in his own home. He has been beaten and burgled, and had dozens of pills forced down his throat, but successfully resisted attempts to force him into the boot of his own car. These events and the subsequent charges are the culmination of a long history of offending and anti-social behaviour. Since primary school the young woman, Nita<sup>1</sup>, has been in trouble of one sort or another. Small, almost insignificant things to begin with - poor rapport with her peers, insolence, incomplete work - but always escalating. By high school Nita has a reputation. She is tough, outspoken and prone to dishonesty. Truancy becomes a habit, as does absconding from home, alcohol and drug abuse and theft. Her regular alcohol abuse often leads to property damage around the neighbourhood. At home, there is a hole in the lounge wall, the result of a family brawl. Youth Aid staff and state social workers have sat alongside the damaged wall and remonstrated with her mother, attempting to ensure the sort of home life that will bring about a change in the sorts of behaviour that Nita exhibits. Now the Court hears not simply a summary of the facts of the charges, but reports from professionals - social workers and psychologists - about her history, her home life and her mother. The Court hears of her violent background, her parents' constant fights. Not only has she witnessed physical violence, Nita has been the victim of a considerable amount of it. Responsibility for the course Nita's life has taken is laid squarely on the shoulders of her mother.

Hamish is 14. He, too, is well known to the local police. Tonight he too is in one of Hamilton's more desirable suburbs - much like his own - and he too is changing the character of a quiet suburban street. Unlike Nita, however, Hamish knows the identity of his victim and there is no attempt to hide his actions. He stands in the street bellowing drunkenly (again) outside the home of an Asian family. His words are abusive, obscene, racist and intimidating. He challenges the occupants to come out and face him. They decline, and there is no physical confrontation with them; the police arrive and Hamish is dealt with through Youth Aid. By the time Hamish is 15 his aggression has

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<sup>1</sup> All names are fictitious.



worsened and physical confrontations are increasingly common. For months now, on any Thursday, Friday, Saturday or Sunday night, the chances have been high that Hamish will be found drunk (or drinking) and belligerent by the police, and taken home. Sometimes, particularly if Hamish is very drunk, his parents will tell the police they do not want him brought home. Bringing him home (drunk) mid-afternoon one day, the police find themselves on the receiving end of Hamish's aggression. Hamish readily swings at them, showing little sign of the intended calming effects of the Prozac he has been prescribed. He is placed in police cells and his father does not arrive to collect him until after eleven that night. Hamish is hungover and distraught by his experiences with other prisoners in the cells. Despite this, his father does not want to take him home, and does so only at the insistence of the Police.

### ***The public faces of the parents of at risk children and young persons***

Within these two scenarios lie a number of vexed issues with which all the subjects in this research project have been confronted to some degree. The cases outlined above are the culmination of a series of events and incidents, and are incomplete, both in terms of some sort of closure for the parents and their offspring, and in terms of the perspective from which events have been recounted. Both the cases indicate a significant disturbance in the parent-child relationship in that the behaviour of both the parents and their offspring is not the behaviour expected of well-functioning families. Both accounts render a negative (and common) impression of the parents of children and young persons exhibiting *at risk*<sup>2</sup> behaviours. The accounts given are factual and accurate depictions of actual events, but they are only partial representations. These depictions are the public faces of the cases, the aspects most likely to be reported in the media - the facts of the cases, drawn from official sources or from direct observation - by which public perceptions are shaped and existing concerns about the prevailing standards of parenting are confirmed and reinforced. The personal struggles of these families are not normally grist for the media mills. The absence of the private world of these families in

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<sup>2</sup> The term *at risk* is employed throughout this thesis to describe a range of behaviours that might variously be described as delinquent, anti-social, deviant, illicit or self-endangering. A broader understanding of the term applies in the welfare sector at large and while this understanding is acknowledged here, the dimension relating to personal behaviour is most pertinent to this research. As such, it reflects the specifications of Section 14 (d) (i) of the 1989 Children, Young Persons and Their Families Act wherein the "child or young person has behaved or is behaving in a manner that is, or is likely to be, harmful to the physical, mental or emotional wellbeing of the child or young person."

the factual accounts given above results in inaccuracy in the impressions imparted and produces a distorted account of the parenting efforts of the respective families.

This research accepts that many cases of *at risk* behaviour result from inadequate, abusive or negligent parenting. It is reasonable to assume that an inadequate home life may be manifested in maladjusted children and young persons, and in cases of abuse and neglect the connection is patently obvious. It is not the case, however, that *at risk* behaviour by children or young persons is inevitably or necessarily indicative of an inadequate home life.<sup>3</sup> The turbulence associated with the transition to adulthood is not restricted to families bereft of responsible parenting, though the public face of juvenile delinquency generally belies this fact, largely due to the closed nature of proceedings in the child welfare and youth justice arenas<sup>4</sup> and the negative media focus. Media headlines frequently depict burgeoning youth crime, and towns and suburbs held to ransom by rampaging teenagers, along with calls for tougher penalties for youth<sup>5</sup> and their parents, presenting a “constant drumbeat of political rhetoric and the persistent media focus on the cacophony of sirens and the collage of yellow crime scene tape” (Shepherd, 1996, p.3). The extent of juvenile delinquency, whether it is increasing or of a more serious nature than in the past or merely being defined or reported differently is a matter of some debate. While media representations of juvenile delinquency (and crime in general) are increasingly acknowledged in academic and professional arenas as imparting a distorted view of the extent of the problem, with a disproportionate allocation of airtime and print columns afforded to crime stories, (Cheer, 1998; Rossiter, 1998; Shepherd, 1998)<sup>6</sup>, the impact on public perceptions remains.

### *The private faces of the parents*

This research augments the public faces of the parents introduced above with their private dimension, in order to provide an understanding of the pressures, frustrations

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<sup>3</sup> The historical tendency (discussed in this thesis) for aspects of home and family to be viewed as causal factors in juvenile delinquency has clear implications for all parents of *at risk* children and young persons. A (less intemperate) variation of this view treats dimensions of family and home as possible risk factors or protective factors, as opposed to causal factors. See Hawkins, 1998.

<sup>4</sup> Crimes by children and young persons may be reported in regard to their occurrence, but the offenders may not be identified and proceedings in the Family Court are suppressed. Publication of matters before the Youth Court requires leave of the Court. The result is public awareness of offences, but not of accountability for the offences.

<sup>5</sup> The image of youth generated by the media is itself a cause for concern, though an investigation of the negative impressions constructed, while acknowledged, is beyond the scope of this thesis.

<sup>6</sup> See also the website of the Casey Journalism Centre for Children and Families for data from the first US national survey of media coverage of children and family issues (<http://casey.umd.edu/casey/web>).

and barriers encountered by the families in their efforts to parent their troubled or wayward offspring. The exposition of their stories assists in identifying impediments to the successful performance of their parenting responsibilities. Their stories trace the path from the family home to the courtroom or the police cells, providing eloquent testimony to the seldom-acknowledged challenges faced by parents in both the private and public spheres. Their out of control offspring require assistance, and the parents themselves require assistance in this regard. Their experiences with their offspring and with agents and agencies involved with youth justice and youth welfare speak to aspects of parenting significantly different from those pertaining to the public faces of these parents. It is intended that the courtroom and the police cells be revisited eventually, informed by a more holistic understanding of events and circumstances. The process by which partial representations are constructed will by then have been deconstructed. The voices of the parents involved will provide testimony to the frequent inefficacy of those same voices within this process, the lived experiences of these families demonstrating the fragility of parental status, authority and power in both the public and private realms in the current social context.

It is often the case that the adequacy and efficacy of policy and practice are most sharply brought into focus at the margins - that is, in those instances where the *status quo* is tested to the limit, where behaviours extend beyond the norm, and where policy is given practical expression through intervention in otherwise private areas of life. Families in which *at risk* behaviour becomes extreme provide the cases which inform public opinion via the media, and which contribute to the data from which official understandings are constructed and policy responses and practices are formulated. Investigation of this marginal territory need not be restricted to those cases that come to official notice however, since the effects of legislation and practice can be felt long before, or in the absence of, official intervention. *At risk* behaviour (and responses to it) prior to official intervention can therefore also be informative, for here too complexity and conflict are characteristic. The (frequently turbulent) transition from childhood to adulthood occurs, most usually, entirely within the private domain and in this respect the stories of the parents in this research depict the frustration, the uncertainty, the hopes, the disappointments, the achievements, the powerlessness, the strength, the mistakes and the heroics of parents everywhere. Examining the experiences of these families and allowing the addition of a parental perspective to the public faces of these families provides a means by which to modify the negative image inherent in the public accounts. Within

this private world is evidence of the role of the state in many of the difficult and disturbing experiences the parents encountered and the research therefore extends beyond the private domain of the parents.

### ***The role of the state***

Although the transition from childhood to adulthood generally occurs entirely within the private realm, the parent-child relationship is now subject to significant influence from the state. The complications inherent in tensions in the parent-child relationship are necessarily intensified by the addition of further parties to the relationship, in as much as these parties also have rights and duties that require consideration. The state also affects parents directly by instituting measures concerned with the governance of children, parents and the parent-child relationship. Policy and practice in the child welfare arena necessarily affect the parents of children and young persons who come to official notice, and indirectly affect all parents. It is therefore necessary to examine the current child-focused legislation and its underpinning philosophy for its implications in the construction of the public faces of these parents and the problems pertaining to their private faces. As noted, the legislation affects public perceptions by removing from public view the mechanisms through which offending is addressed. Other aspects of the legislation affect the power balance between parents, children and the state, set the parameters within which *at risk* behaviour is defined and apportion responsibility amongst the parties. The legislation is therefore integral in coming to a fuller understanding of the experiences of the parents.

Problems associated with the legislation can be compounded by the implementation process, which also requires investigation. Practices in the child welfare sector determine who receives assistance (or is subject to intervention), the point at which this occurs and the type and extent of assistance or intervention. The practices also indicate prevailing perceptions regarding parents and the constraints confronting the professionals charged with the operationalisation of the legislation. Inevitably, there are elements within the parents' stories which reflect poorly on current practices, agencies and professionals. Some criticism is inevitable, but should be considered incidental, rather than focal. Any inquiry into possible failures in the current child welfare regime would require a vastly different type of research from that engaged here. None the less, the parents' experiences need to be related to current practices in order to examine effects related to the operationalisation of child-focused legislation, though the role of the state is not confined to this sphere.

The state's role in the parent-child relationship is not restricted merely to those laws that govern the relationship. Current New Zealand legislation presents a maze of laws and regulations relating to the treatment of members of the population under the age of 20, their rights and restrictions. These are discussed here in order to discern the underlying ethos attached to the current legal context within which the experiences of the parents and their children are embedded. The context is at first glance confusing and conflicting, though on closer examination there is evidence of a good deal of consistency. Though the age of majority is at present twenty, there is recognition that those in their teens are generally capable of undertaking activities and responsibilities that younger children are not and the legislation allows participation in various activities at ages below the age of majority.

It is possible to gain a Driver's Licence for a car or motorcycle at age fifteen and a Firearms Licence at sixteen. One may vote at eighteen, though Jury service (jurors are drawn from the Electoral Rolls) is not permissible until one is twenty. Casino gambling has a minimum age of twenty, while Totalisator betting requires that bettors are eighteen or more. Lotto may be played by people of any age, but clients must be at least sixteen to purchase Instant Kiwi tickets. Contract law requires that contractual parties be twenty years of age or more in order for the contract to be binding, though a Tenancy Agreement may be binding on eighteen year olds. Adding to the melange, it is possible to marry at age sixteen, though entitlement to an adult minimum wage does not begin until age twenty. In the welfare sector, the benefit rate for an eighteen year old is the same as that for a twenty year old and, while benefit eligibility requires a minimum age of eighteen, a sixteen year old single parent may obtain a benefit at a rate equivalent to the DPB, provided he/she does not live with his/her parents. Guardianship continues until twenty years of age, though it is legal to move out of home at sixteen. Though consent to medical procedures is generally required of parents until the child is sixteen, abortions are available to females of any age without parental knowledge or consent, and both genders may receive contraceptive advice and treatment at any age, again independent of their parents' knowledge and consent.<sup>7</sup>

Clearly, there is a myriad of laws and regulations governing what activities children and young people may participate in, and the age at which they may participate. Many of the

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<sup>7</sup> The New Zealand Bill of Rights Act 1990 may yet allow, through case law, that parental consent for any medical treatment is not necessary for under-sixteen year olds of sufficient competence (Austin, 1994, pp.148-161).

regulations which stipulate participation at a certain age have been developed for adults within an adult realm, and participation by those below the age of majority has been a secondary consideration. The legislation has not been introduced or enacted on behalf of children and young persons, but has required consideration of them in that the particular activity may be less suitable for those below the age of majority. Any consistency in the legislation to date in terms of appropriate ages for participation in various activities has not been the result of the application of an organised and well deliberated set of principles based on a common understanding of the relationship between childhood and adulthood. Despite the absence of such a set of principles, however, there is evidence within the legislation of a general and consistent theme - a theme denoting increasing rights with increasing age, premised upon the degree of responsibility attached to such rights. While one may drive a car at fifteen, one must be twenty to drive a bus, or, though able to vote at eighteen, jury service requires a minimum age of twenty.

There is in these laws an implicit acknowledgment of the growing capabilities and competence of the child, such that participation in some adult activities is seen as appropriate at ages below the age of majority, in particular, for that group legally delineated as young persons. The legislation does not allow participation in all categories of activities deemed suitable for those below the age of majority, but not for children, at one particular age. Although officially a young person at age fourteen under current New Zealand legislation, eligibility for participation in driving, voting, drinking and full-time work does not occur at this one particular age - or any other particular age. Instead, eligibility for participation in various activities is spread throughout the period during which one is officially classed as a young person. Though the legislation has generally been implemented on an *ad hoc* basis, it presents a recognition of the developmental nature of the path from childhood to adulthood and has maintained a good degree of consistency in this regard through the decades. The developmental approach is a part of the context within which children and their parents interact and the theme of the legislation is reflected in the practices of parents everywhere.

While a developmental approach is evident in the legislation, the state's role in influencing the context of parenting has extended in recent decades to include the consideration of children and young persons as citizens. A rights-based approach is inconsistent with the developmental approach and the tensions produced have also become part of the landscape of parenting. This also requires examination. Again,

however, the explanation that results from this investigation is inadequate in providing a comprehensive understanding of the parents' experiences. It is clear that current legislation and practice are the culmination of decades of development in the child welfare sector and the historical role of the state - the means by which the current conditions were attained - also requires investigation. This necessarily involves examining the developing nexus of child, parent and state for its potential to make sense of the divergence between the public and private faces of the parents.

### ***An ecological perspective***

The domain in which parents and their children interact is not confined to the child welfare sector and developments in related areas (education, health and economic policy, for example) are also relevant in the parent-child relationship. Furthermore, the nexus of child, parent and state is influenced by conditions in the wider context. Just as the private dimension is absent from the accounts which introduce this thesis, also missing is any understanding of the social, economic and ideological context in which the families' struggles have taken place. While the child welfare sector establishes limits on the behaviours of parents and children beyond which intervention is inevitable or before which intervention is unlikely, prevailing social conditions and perceptions affect both the sector and parents. The experiences of the subjects in this research are necessarily reflective of current ideology, policy and practice, both in the child welfare sector and in wider society. The systems, processes and professionals encountered by the parents are as much influenced by the current and historical context as are the parents. Acknowledging the impact of context - adopting an ecological perspective (Garbarino, 1999) - enables a significantly more comprehensive understanding of the parents' stories and the construction of their public image than those enabled by abstracted, decontextualised analyses. To this end, the historical development of the child welfare sector (and the context in which this occurred) is augmented with an investigation of salient features of the current social, economic and ideological context. Changes in policy, practice and context often interact in unintended and unexpected ways (Millar and Warman, 1996, p.7). Individually and together, features of the current context (heightened awareness of child abuse, the children's rights movement and New Right ideology, for example) present parents with complications and challenges not previously encountered in the family domain. Each of these influences the parent-child relationship individually, but also operates in conjunction with the others. Heightened awareness of child abuse, for example, fosters evaluations and adjustments of parenting methods by

both the professionals and parents, increases surveillance of parents and questions the assumed benevolence of parents. It also interacts with notions of children's rights causing further evaluations and adjustments, complicated by notions of competing rights, equality and autonomy. The addition, during the 1990s, of a neo-liberal ideology, with its emphasis on individual responsibility highlights the connections between rights and responsibilities, tending to redefine parental rights as merely responsibilities, with obvious consequences for perceptions of parental power and authority. These interactions and interrelationships all occur amid changing social values and conditions. Selected aspects of the territory enter the public domain via the media and the resulting images further influence interactions within the parent-child relationship, the nexus of parent, child and state and the context in which they operate. Newsworthiness determines coverage. Minor problems are consequently exacerbated or unnecessary problems are engendered, while significant problems are ignored. Context then, is essential to a more holistic explanation of the problems and challenges reiterated in the parents' stories. It is not possible within the bounds of this thesis to undertake an all-encompassing study of the context in which the stories of the parents have been enacted. Presented instead are a number of relevant features of the current context, important for both their direct impact on the parents and their ability to demonstrate the interconnections within and the effects of context.

### ***A sociology of parenthood***

The territory covered by this research is an area seldom visible. Preliminary research exposed a void in the literature relating to the family. There is a growing literature on the sociology of the family, established consequent to the work of Parsons in the 1940s and 1950s. Although the Parsonian model of the family was challenged, the nuclear family provided a useful unit for analysis and policy delivery. The family was researched, discussed and analysed in regard to its place and function in society (Anderson, 1971; Koopman-Boyden, 1978; Scanzoni, 1983; Demos, 1986; Davidson, 1990; Bittman and Pixley, 1997; Adair and Dixon, 1998) and in relation to social policy (Koopman-Boyden and Scott, 1984; Zimmerman, 1988; Coote *et al*, 1990; Maxwell *et al*, 1991; Easton, 1994; Meade *et al*, 1994; Syme, 1995; Morris *et al*, 1998). Other works, informed by demography, focused on diversity and change in family form over time (Swain, 1978; Boh *et al*, 1989; Pool, 1992; Inglis and Rogan, 1994; Jackson, 1994; Kamerman and Kahn, 1997; Pool *et al*, 1998). A range of perspectives was employed in researching the family - structural-functional, symbolic interaction, developmental and feminist (Swain, 1990).



While each makes its own contribution to the field, the last was most instrumental in prompting re-evaluation of the assumptions inherent in existing research and literature on the family.

The challenge to Parsons' model of the nuclear family also prompted further evaluation of the discipline itself, exposing a propensity in the published research to subsume children within the family in research and analysis. Notions of children as separate units of analysis are evident in the work of Aries, 1962, Erikson, 1965, Skolnick and Skolnick, 1971, 1974, De Mause, 1974, Skolnick, 1976, O'Neill and Ruddick, 1979, Harre, 1986, Dornbusch and Strober, 1988, Doxiadis, 1989, and Qvortrup, 1991. Like the family, children began to be researched in relation to policy (Meyer, 1977; McDonald, 1978, 1988; Hartley, 1981; Gabinet, 1983; O'Reilly, 1984; Richards and Light, 1986; Scarre, 1989). While early work in the sociology of childhood was concerned to establish children as a distinct group worthy of attention, in recent years the emphasis has been on the way in which the group is researched, arguing that there had been a tendency to conceptualise and treat children as passive objects rather than as subjectivities and actors in the social context (Qvortrup *et al*, 1994; Wintersberger, 1996; Corsaro, 1997; James and Prout, 1997). The consideration of children as active participants is increasingly incorporated in policy oriented research on children (Maxwell, 1996; Taylor and Smith, 1996, 1997; Mayall, 1999).<sup>8</sup>

An extensive literature on children from a number of perspectives (psychology, policy, rights, welfare, education and health) has since developed, including a large and growing body of work on child abuse from a range of perspectives (Armstrong, 1981; Besharov, 1983; Finkelhor, 1983; Abbott, 1985; Carney, 1989; Cohn, 1991; Doek, 1991; Maxwell, 1994; Thyen *et al*, 1995; Dore and Alexander, 1996; Maxwell and Carroll-Lind, 1996). Similarly, there is an expanding literature on children and the law (Hartley, 1981; Ludbrook *et al*, 1981; Freeman, 1984; Daly and Holden, 1986; Kiernan, 1988; Ludbrook, 1988, 1991a, 1992, 1995; Thorburn and Knox, 1989; Cameron and France, 1990; King and Piper, 1990; Henaghan and Atkin, 1992; Gilbert, 1993; Eekelar and Saravic, 1993; Austin, 1994; Barton and Douglas, 1995; Peters and Gilbert, 1996; Eekelar and Nhlapo, 1998).

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<sup>8</sup> Considerable research is also now available on the internet. See for example, the work of the Centre for World Dialogue (<http://www.worlddialogue.org>), the European Centre's programme on childhood (<http://euro.centre.org>), the European Children's Network (<http://www.ndo.be/encp/>) and the Child Research Net (<http://www.childresearch.net>).

The attention to children and the law and children as actors both informs and reflects the literature on children's rights. While awareness of children's rights is implicit in the work of those seeking reform in the child welfare sector in New Zealand in the 1970s (Anich, 1979 for example) and in general international works on children's needs and interests (Goldstein *et al*, 1973, 1980), the movement quickly fostered explicit consideration of children's rights (Gross and Gross, 1977; Shannon and Webb, 1980; Bross, 1991; Glendon, 1991; Ludbrook, 1991b; Freeman and Veerman, 1992; Archard, 1993; Jones and Basser Marks, 1999; Smith *et al*, 2000). Again policy implications became the focus of attention, with children's rights relating to health (Geddis, 1994; Wilson *et al*, 1995; Basser Marks, 1998; Ludbrook and Wood, 1999), welfare, (Angus and Gray, 1995; Ludbrook, 1999) and more general policy (Phillips and Ludbrook, 1993; Henaghan and Tapp, 1999) representing this growing consciousness of children's rights.<sup>9</sup> The continuing development of the sociology of childhood promises to further redress the previous invisibility of children within the sociology of the family. The second significant component of family is less well served.

There is a sense in which the sociology of the family can be assumed to be equivalent to a sociology of parenthood, since parenthood is integral to common understandings of family.<sup>10</sup> Like childhood however, parenthood (in its social, rather than biological, sense) was invented or socially constructed (Swain, 1978, p.26). The role and function of parents are determined by prevailing beliefs and values. These are frequently distinct from the role and function of the family as a social unit and cannot be explored using the family as the unit of analysis. While the sociology of the family has incorporated research into some dimensions of parenting (the undervaluation of the work of parenting or evaluations of parenting styles, for example), there is a general paucity of sociological literature on parents. As was previously the case with children, they are subsumed into the sociology of the family and are frequently invisible or marginalised. Although a large body of work exists in psychology (usually focused on parents' effects on children and effectively problematising parents), there is no systematic and sustained body of work which offers a sociological perspective on parenthood. There have been intermittent attempts - demographic analyses akin to those relating to the family, investigation of

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<sup>9</sup> See also the Children's Defence Fund (<http://www.childrensdefense.org>), Childwatch International (<http://www.childwatch.uio.no>), Ministry of Youth Affairs (<http://www.youthaffairs.govt.nz>) and Youth Field Xpress (<http://www.acys.utas.edu.au>) for a range of services for and research on children and young persons.

<sup>10</sup> See Swain, 1978, for some exceptions to this common conception.

gender roles or analyses of the influence of state allowances on the incidence of single parenthood, for example. These are not equivalent, however, to the investigation and analysis of the lived realities of parents as parents, rather than as invisible components of the family. Nor is there a body of work examining the impact of social policy, social context or social history on the tasks of parenting.

This is not to say that parenting has escaped attention by the state and the professionals. Here too, the focus tends to be on the child, with discussion of the respective roles of parents and the community in the parenting endeavour frequently undertaken from the perspective of children's rights (Tapp, 1998). There has been increasing state interest in the quality of parenting with a view to devising appropriate responses where it was deemed to be deficient (Bracken, 1988; Durham, 1995). Reflecting the problematising approach of psychology, literature on parenting continues to focus on the parents' effects on the child, as typified by the "promotion of positive parenting ... as the most effective means of reversing the escalation of troubled children" (Bracken, 1988, p.4). Factors which affect the parents are acknowledged only in passing, and tend to be limited to economic or educative factors. Parent education literature reflects a diversity of approaches, though the psychotherapeutic dimension becomes increasingly evident in works published in the latter part of the century. The contradictions existing in various approaches to parenting constitute one of the factors affecting parents, but their effects have yet to come under sociological scrutiny.<sup>11</sup> One work, however, is notable for its consideration of the social dimension as a factor in determining the behaviour of the coming generation (Rich Harris, 1998), a perspective notable for its absence in other works. Rich Harris, whose training is in psychology, uses her research, knowledge and experience in psychology to build an argument contending that parents have increasingly little influence over their children as they mature. Peers, schools, media and their associated values are contended to exert increasing influence, effectively neutralising the influence of the parents. The research is as yet unsupported by further research, though the argument appears to be compelling. Once again, the research focuses on the influence of these social factors on children and young persons. A sociology of

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<sup>11</sup> Contradictions are evident in the approaches of the various experts on parenting (the divergent approaches of Ziglar, 1989 and Green, 1984, for example). More recently, the continuing work of James and Jane Ritchie (1970, 1978, 1981, 1997) in New Zealand contrasts sharply with the highly structured parental approach advocated by Gary and Anne Marie Ezzo (1990, 1993, 1997; Ezzo and Bucknam, 1994, 1995, 1999) in the United States.

parenthood requires that the impact of these factors (and indeed, the impact of children) on parents be investigated.

While Swain (1978) noted the dearth of sociological literature on parenthood, and presented a base from which to start, the field has continued to attract little attention. On occasion, consideration of parents emerges coincidentally. In exploring the components of family policy, Koopman-Boyden (1990) notes those values on which there is a degree of consensus - amongst them an acceptance of multiple family forms. Among the issues on which there was no consensus was the respective rights of individual family members, implying a separate regard for parents. Further to this, Koopman-Boyden contends that the policy process also needs to include monitoring of the impact of policies on relationships within the family, on relationships between the family and outside groups, and on the identity and status of family members (Koopman-Boyden, 1990, pp.23-4). The need for this monitoring to occur within the policy process is essential by virtue of the insignificance of families as a political force. Their lack of a political voice is brought into sharp relief through the comparison of family entitlements and pensioner entitlements. With the assistance of Grey Power and Age Concern as their political voice, the New Zealand elderly receive considerably greater government assistance than do families.<sup>12</sup> There are no similar organisations acting as political voices for families.

Although the need for political representation for families is acknowledged, it is argued here that this is insufficient. The components of family also require political representation. For one component of family, this is developing. Unable to vote, children and young persons have no political voice in the most literal sense. Increasingly however, they have attracted support from official and voluntary agencies alike, allowing them access (though usually mediated access) to political decision-makers. This advocacy is not replicated for parents in the public arena and, while both parents and children are relatively powerless politically, the political power of parents is demonstrably weaker. The monitoring of policy outcomes, as suggested by Koopman-Boyden, offers a means by which to serve the needs of both groups, though the parental dimension requires the establishment of a separate advocacy for parents.

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<sup>12</sup> In 1990, a pensioner couple with an income of \$30 000 per year was eligible for 30 to 40 times the amount of government assistance available to a family on the same level of earned income (St John, 1991, p.76)

The emergent sociology of childhood and the accompanying children's rights movement inform the operationalisation of current child welfare legislation. There is a growing, though still inadequate, body of research concerned with the welfare of children in general and the efficacy of current legislation and practice. With respect to current children and young persons' legislation in New Zealand, there is an acknowledged failure to implement adequate monitoring of outcomes following the introduction of the Children, Young Persons and Their Families Act in 1989 (Mason, 1992; Morris, 1998). Indeed, it was not until 1995 that substantive action occurred, with the publication of a proposal for an appropriate methodology for measuring outcomes for families involved with Department of Child, Youth and Family Services (CYF) (Maxwell, 1995b). There was no suggestion as to how *at risk* families who are not involved with CYF might be researched. Thornton (1993) identifies only one research project (Maxwell and Morris, 1993) which investigates the experiences of children, families and victims who participated in Family Group Conferences under the Act, though a later work, Gilling *et al*, 1995, also considers family participants.<sup>13</sup> Though useful, the reports are confined to small samples and focus on experiences with the FGC process, rather than the wider child welfare context. The remainder of the literature examines the experiences and perceptions of the professionals involved, or analyses the processes and functions of the conferences (Tapp, 1990; Angus, 1991; Barbour, 1991; Hassall and Maxwell, 1991; Geddis, 1993; Child Protection Trust Advocacy Committee, 1994).<sup>14</sup> There have also been works which explain or evaluate the 1989 Act or components of it (Thorburn and Knox, 1989; Auckland District Law Society, 1991; Paterson and Harvey, 1991; Mason, 1992; Maxwell and Morris, 1993, 1994; Wood, 1994; Swain, 1995; Robertson and Maxwell, 1996; Morris *et al*, 1997; Morris and Maxwell, 1998). Despite the failure to monitor outcomes, there exists a considerable body of literature related to the legislation. This includes reports, submissions and discussion papers related to the formulation of the legislation (Jefferson, 1989; Renouf *et al*, 1989, 1990, Petersen, 1994) aspects of youth justice (Donnell and Lovell, 1982; Lovell and Norris, 1990; Maxwell, 1995a; Cheer, 1998; Kerslake and Lange, 1997; Kerslake *et al*, 1998; Rossiter, 1998; Morris and Maxwell, 1999)

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<sup>13</sup> While high levels of satisfaction were reported by the families in the research (Maxwell and Morris, 1993), this may be related to the degree of severity of the penalties imposed by the FGC, rather than to a general satisfaction with the process (Morris and Maxwell, 1998). Gilling *et al* (1995) note the tendency for the child's interests to be subsumed into the family's interests in the FGC process. Additionally, and more important to this research, the second study also notes that many parents who participated in FGCs felt unheard and disempowered by the process.

<sup>14</sup> Thornton (1993) presents a comprehensive review of the literature relating to FGCs.

and general policy initiatives (O'Reilly, 1998; Office of the Commissioner for Children, 1990).

Despite the growing literature in the field, little consideration has been given to the experiences of the parents within the system, and those parents who are not accommodated within the system (which is not always a matter of their choosing) are disregarded altogether. There is a dearth of material relating to parents except in as much as they might be held responsible for aspects of the research relating to children - child offending, for example. The invisibility of parents in sociological theory is transported into the research process, leaving parents at best marginalised, but more commonly disregarded and invisible. While it is entirely appropriate for those working within the child welfare sector to focus their attention and efforts on children, it is not appropriate that the second dimension of family is accorded no advocacy or voice at all. There is an inseparability attached to the components of family, a sense in which one component is incomprehensible in isolation from the other. While the sociology of the family allows consideration of the family as a unit, it is not adequate for the research and analysis of the family's component parts. The sociology of childhood addresses one dimension of the resultant deficiency, but there is a continuing need for the development of a systematic sociological enquiry into the conditions of parenthood. Because of the inseparability of the components, a comprehensive understanding of one is impossible in the absence of the other. The development of a sociology of parenthood will therefore enhance understandings of childhood and much is to be gained from better understanding of the overlaps and interactions between the two.

### ***Addressing the research***

A complex arrangement of factors affects the conditions of parenthood and parents' capacities to undertake the duties of parenthood. This thesis examines historical changes in New Zealand's legislation, social context, policy and practices regarding the status and treatment of children. This is undertaken with a view to determining how these changes have affected the respective rights and responsibilities of the state, parents and children. There is also an exploration of influences affecting current policy and practice in the child welfare sector and their relation to the lived experiences of some parents of *at risk* children and their attempts to fulfil their parental responsibilities. Thus, while the thesis examines the efficacy of the law, policy and practices currently employed in New Zealand to assist *at risk* children, young persons and their families, it sets this within its current and historical social context. This process allows the addition of a parental perspective

to the discourses of the child welfare sector, enables the construction of a more holistic and accurate image of parents and provides a sociological explanation of the current conditions of parenthood.

This thesis contends that attempts to ensure better treatment, higher status and greater rights for children and young persons have fostered a concomitant redefinition of the respective rights and duties of parents, children and the state. As increased rights have accrued to children and young persons and the state has undertaken an increased role in the welfare of children, the position of parents is increasingly characterised by responsibilities rather than rights. By association, rather than intention, the elevation of children has brought about a significant devaluing of parents. The legislation and, more particularly, its operationalisation, resonate with the effects of an historical (though largely unintended) erosion of parental *mana* in both policy and practice, and in the wider social context. The combination of historical change and negative constructions of parents have affected parental *mana* such that the parents of *at risk* children and young persons no longer have the means to meet their obligations adequately.

### ***Chapter summaries***

**Chapter Two** describes the research process utilised in this project. In doing so, it demonstrates the ways in which the researcher, the topic and the research participants interacted and ultimately shaped the research process. The natural proclivities of the researcher - distinctly rationalist - were subsumed by the need to allow the stories of the participants to be heard. This necessitated a qualitative approach, manifested in the recording of their stories in personal interviews. The emergent themes drawn from their stories assisted in refining the eventual research topic - or problem - which required exploration and analysis. Mere description of their experiences was deemed to be inadequate, if alleviation of their plight was to be achieved. The grounded theory derived from the data required verification in a wider context.

At this point the research might have devolved into an analysis of legislation, institutions and practices in the child welfare arena. Again the participants influenced the process, for their experiences were those of parents rather than simply receivers (or not) of institutional intervention. Their stories indicated a problem that went beyond simply any interactions with child welfare agencies, a problem connected with cultural, social and economic changes and their effects on prevailing attitudes and conditions. The research process therefore needed to make sense of an ethnographic account of their experiences

and the theory grounded in it, by undertaking a critical analysis of historical and contemporary legislative, cultural, economic and social conditions. The critical analysis was undertaken from a parental perspective, examining legislative, social and ideological changes with a view to determining their impact on parents. The project, then, is described as mixed method research. It is ethnographic in its presentation of the subjects' experiences, but adopts a grounded theory approach (inductive theory building) to the data collected during the interviews. A critical analysis is then undertaken in regard to the historical changes in the wider context in which the participants' experiences are embedded.

The chapter briefly examines the debate surrounding the nature of reality, paying particular attention to the concept of bias as it relates to this project. The bias inherent in subjective accounts and critical analysis is acknowledged, but these are argued to be necessary components of an holistic understanding of the child welfare arena. Despite the contention that a parental perspective provides a valid contribution to this arena in itself, there is an attempt to address assumptions upon which the research is premised. Ethical considerations are addressed as they arise in the description of the methodological process, though they are more pertinent to the ethnographic aspect of the research. Brief demographic details of the research participants are given in the description of the ethnographic component of the research, though there is no claim to representativeness, and no attempt to analyse the data according to variables such as ethnicity or income. In synthesising the findings from the interviews with the findings from the critical analysis, however, it is contended that the transferability and credibility of the grounded theory is enhanced. This is the purpose of combining a methodology capable of generating theory with a methodology that allows theory verification.

**Chapter Three** presents an account of the historical development of child welfare in New Zealand from 1840 to 1982. Child welfare should be understood in broad terms here, encompassing developments in legislation, education, personal and public health, psychotherapy and child protection services. Drawing on the work of Dugald McDonald (1988), the chapter examines this development with a view to determining its repercussions for parents. In the span of the 142 years covered by the chapter, families underwent a transition from circumstances in which children attracted only negligible official consideration (and such consideration as existed was premised on welfare rather than rights) to circumstances in which they were accorded consideration as individual possessors of rights. While this transition had a direct impact on the relationship



between parents and children in itself, so did the accompanying increasing encroachment of the state into the family domain. Similarly the transition was a reflection and component of changes at a wider level and it is important to consider the changes affecting families within this wider context.

McDonald arranges the 142 years into five periods that allow typical characterisations of children in the various periods, premised on influential social values of the period. This chapter augments his analysis with corresponding characterisations of parents, since prevailing social values are relevant to both groups. None of the characterisations is intended to be definitive, but each allows a broad understanding of the context and disposition of the relevant period. Comprised of five distinct periods, the relevant dates are somewhat arbitrary, and overlaps are inevitable. Vestiges of the practices and values of previous periods are evident in subsequent eras, as are indicators of future developments. The periodisation nevertheless provides a useful basis from which to examine changes in the parent/child/state nexus.

Accordingly his characterisation of children as chattels in the first period is accompanied by a characterisation of parents as owners and the state as largely disinterested. By 1982 children are characterised as citizens and parents as equals, the relationship governed and policed by the state. The intervening years present an initially gradual and grudging acceptance of collective responsibility, which gains impetus in the late 1930s with the election of a Labour government and the subsequent institution of a welfare state. Psychotherapeutic theories inform and augment notions of children as social capital mid-century and precipitate an explosion of child services and facilities in welfare, education, health and justice. From the initial characterisation of children as chattels and parents as owners, the analysis tracks the development of child welfare and its attendant theories and practices in tandem with the repercussions of this on public perceptions of parental capacity, competence, authority and - ultimately - *mana*.<sup>15</sup> Central to this process is a focus on prevailing official views of the causes of delinquency and the historical tendency

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<sup>15</sup> The word *mana*, which along with many Maori words has become part of contemporary New Zealand speech, was chosen specifically for its ability to convey a broader concept than any similar English term. In encompassing notions of prestige along with power and authority, *mana* allows access to both the public and private domains. This more holistic concept is useful in reference to the erosion of parental rights (power and authority) at the personal level and the erosion of public perceptions of the competence and beneficence of parents (status and prestige). The term also has a spiritual dimension which is useful here in denoting the aura of respect and reverence which once pertained to parents and elders, but which is considerably less evident in the current era.

to attribute this to parental inadequacy (though the nature of the inadequacy varies between periods).

The chapter also traces the ascendance of experts in childrearing and their impact on public confidence in, and the personal confidence of, parents. From Truby King's emphasis on the proper training of parents to the later emphasis on child-centred education and childrearing, emerged notions of proper parenting - a skilled and specialised undertaking beyond the capacity of untrained individuals. Only with expert guidance and increased surveillance could the wellbeing of the next generation be assured. Both within and between periods, however, the theories and advice of the experts were not univocal. The pluralism emergent in the post-World War II years was as applicable to this aspect of life as to any other. Uncertainty regarding optimal parenting methods combined with uncertainty regarding many previously accepted norms and values to an extent not previously witnessed. Adolescent behaviour reflective of the developing pluralism engendered moral panics and ministerial inquiries. The punitive response to adolescent aberrant behaviour that permeated the earlier periods, however, had long since abated and conservative rhetoric was not translated into policy or practice. The psychotherapeutic approach prevailed, becoming in both the public and private realms an intrinsic component of the multiple spheres affecting the parent-child relationship.

The final period outlined by McDonald begins in 1969. In characterising children as citizens his analysis demonstrates the impact of the extension of the rights movement to children. Once largely invisible in the public domain children increasingly attracted advocacy as individuals and as a group. Official concern for their welfare came to include concern for their rights, a concern that did not abate in the years following McDonald's analysis. The history of the child welfare sector also demonstrates a process in which children have become contested territory, with the previous dominion of their parents now shared by the state. While much change is evident in legislation, policy, practice and context, one aspect remains significantly constant. Throughout the 142 years of the analysis, attempts to find solutions to the problems affecting some children and young persons invariably implicated parents as a cause, and, in doing so, served to undermine the *mana* of parents in both the public and private domains.

**Chapter Four** continues the historical analysis, examining developments affecting the child/parent/state nexus in the latter part of the century. The problems, most notably the power of child welfare professionals, which prompted the formulation of the

Children and Young Persons Act 1974 are investigated and the Act itself is outlined. Practices subsequent to the enactment of the 1974 legislation are examined in relation to the intent of the legislation, with evidence suggesting that the ethos embedded in the Act was not adopted throughout the child welfare sector in a timely, universal manner. As the new ethos permeated the institutions and organisations involved in child welfare, continuing concerns regarding procedural aspects of the legislation and further developments in psychotherapy prompted a number of amendments to the Act. The principles encapsulated in a 1983 amendment - normalisation, localisation, voluntariness and participation - marked a legislative commitment to children's rights and emphatic consideration of the psychological dimension in all matters affecting children. While family or a family setting is supported in the principles of normalisation and localisation, the latter two principles relate to children's rights, to an understanding of children and young persons as active, uncoerced participants in decisions concerning or affecting them.

The wider context within which developments in child welfare are set is outlined in a description of changes in New Zealand's policy arena - and their implications for parents - towards the close of the twentieth century. Crucial to developments in this period was the shift to monetarist economic policies, with an emphasis on economic reform, deregulated markets and user pays. Burgeoning welfare costs, due in most part to an aging population, but also significantly affected by increasing numbers of unemployed workers and single parents, were met with an ideologically driven restructuring of the welfare state. Tightened eligibility guidelines and benefit cuts in 1991, which heralded the New Right agenda of the National government, contributed to a significant widening in income inequality at a time when families and communities were increasingly charged with responsibility for meeting their own needs. The market philosophy also drove changes in the delivery of social services, with the adoption of competitive tendering processes and a compunction to meet the requirements of the State Sector Act 1988, stressing managerialism. The requirements of the Public Finance Act 1989, by which funding is predicated on previously agreed outputs, further constrained the operation of the sector in that flexibility and responsiveness became secondary considerations.

The frenetic pace of change which characterises this period was keenly felt in the child welfare sector, which by 1972 had become a part of the Social Welfare Department and was subjected to nine restructurings in as many years and eventually became a stand alone, dedicated unit in 1999. The introduction of the new Act in 1989 sought to address

continuing concerns regarding the power of the professionals through the implementation of a philosophy centred on family empowerment, though there is reason to argue that, while responsibility is firmly attached to parents and family under the Act, the balance of power shifted little. Although family empowerment and the containment of the power of the professionals were the motive forces behind the Act, the concomitant devolution of responsibility from the state to the family and community fitted well with the implementation of New Right ideology during the 1990s. The imperatives of minimising the role of the state and promoting individual responsibility are also evident in the retrenchment of residential and fostercare services for children and young persons from the mid to late 1980s, though, again, the initial motivation was not associated with the neo-liberal agenda, instead reflecting prevailing concerns regarding the appropriateness and efficacy of residential care.

By 1990 there were just 83 beds for residential care nationally. The adoption of a last resort policy reflected general dissatisfaction with both the functioning and philosophy of residential care. The paucity of residential beds was eventually recognised as problematic and in 1996 the National government adopted a new residential services strategy with an emphasis on small specialist units separating youth justice and care and protection cases. In the interim, however, the last resort policy had fostered considerable disquiet in local communities in which it was proposed to establish these units. The disquiet was prompted by adverse publicity surrounding problems emanating from the concentration of the most difficult cases in the few facilities which were still available. The development of new facilities was therefore delayed by objections under the Resource Management Act.

The emphasis on finding in-family solutions brought about similar reductions in fostercare services. Although the reductions fitted well with the New Right ethos, they were also heavily influenced by developments in psychotherapy which noted the negative impacts on children and young persons of institutional or alternative care - and later noted the dangers of strict adherence to a policy of maintaining children and young persons in the family unit. The empowerment of parents, however, was predominant only in the rhetoric, and while responsibility was devolved to families and communities, there was a distinct absence of measures designed to assist families in meeting those responsibilities. As the pendulum swung reactively to cases indicating current practices did not serve children and young persons well, one aspect continued to gain momentum - children's rights.

The chapter also examines changes in education (in both administration and curricula) and health in terms of community input and responsibility. Again there is evidence of increased responsibilities for parents, but scant regard for their ability to fulfil them. Furthermore, curriculum changes present an inherent challenge to parental capacity and autonomy by virtue of the nature of some courses now offered. A similar challenge is to be found in the health sector in those cases where the decisions and wishes of parents or children and young persons collide with those of the professionals.

**Chapter Five** presents a review of the process by which the current legislation, the Children, Young Persons and Their Families Act 1989, was formulated, indicating the significance of particular actors and the change in government. Aspects of the current law are compared with those of its predecessor, the Children and Young Persons Act 1974. The welfare approach that is evident in the 1974 Act is not replicated in the later Act, which returns to a justice approach for youth offenders. The detail of the current legislation is examined with a view to determining its ramifications for parents whose circumstances fall within its parameters.

The earlier Act, introduced by a Labour government, decriminalised most offences by children and aimed to reduce the power of social workers and professionals by allowing citizens' participation on Children's Boards. Under the Act most offences by children were to be processed by the Children's Boards and a complaints proceeding, addressed to the parents, was introduced for offenders aged between 14 and 17. The Children's Boards, however, were not judicial bodies and could not enforce compliance with their recommendations. Furthermore the decriminalising aims of the legislation were undermined by practices that continued to see growing numbers of young offenders in institutional care. A number of amendments to the legislation attempted to address these and other concerns and in 1982 new draft child protection legislation was formulated as a result of regional seminars. Presented at the 1983 National Conference on Child Care and the Rights of Children, the reworked draft was likely to have become law were it not for a change in government in 1984. The incoming Minister of Social Welfare, Ann Hercus, instigated a review of existing legislation and the resultant bill was introduced in 1986, engendering significant opposition from social work professionals in respect to the proposed limitations on their powers. There were also concerns relating to the most appropriate child protection measures to include and the monocultural nature of the bill. The 1987 election brought with it a new Minister, Michael Cullen, and a further review of the Bill, seeking to simplify it. The Working Party established by the

new Minister found this to be unworkable and a total review was recommended. In particular, the views of Maori and Pacific Island communities were sought. The redrafted Bill was presented in Parliament in May 1989 and became law the following November. Reflecting compromise on a number of contentious aspects, the Act also contained seemingly arbitrary decisions, and, despite the consultation process engaged, there remained a dearth of political representation expressly for parents.

The philosophy of the new legislation, and the principles embedded within it, present a strong confirmation of the importance of family to the wellbeing of children. Family participation in decision-making and strengthening of the relationship between children and their families are among the prescribed principles in the legislation. The Director General of Social Welfare is charged with responsibility to monitor policy and services in this regard. The focus on family, however, is not paramount. In instances where there is a conflict in principles or interests, the interests of the child become the deciding factor. The paramountcy of the interests of the child has been the subject of considerable debate and an amendment in 1994 strengthened the wording of the Act such that the interests of the child are the first and paramount consideration, rather than simply a deciding factor where there was conflict.

The detail of the Act is examined in order to establish additions and omissions when compared to the previous legislation - the removal of truancy and the inclusion of serious differences between parents and children as indicative of care and protection concerns, for instance. The chapter also discusses the most innovative feature of the new legislation, the Family Group Conference (FGC). This is the key mechanism for ensuring family participation in decision-making and constitutes the primary means for disposal of care and protection or youth justice cases. Family empowerment, however, is dependent on a concurrence of opinion between the family and the professionals. Failure to reach agreement ultimately results in power resting with the referring social worker or member of the police. The power of the FGC Co-ordinator can also be problematic for families and is compounded by the position's dual roles of serving the participants and acting for the Department. Further impediments to the empowerment of parents in youth justice and child abuse cases are outlined, including the inability of families themselves to instigate FGCs - though children or young persons and professionals are much better positioned to do so. A recurring feature of the analysis is the potential for underfunding to undermine the intentions of the Act.

Care and Protection Resource Panels, established under the Act, provide a further opportunity for community representation in child welfare matters, but, much like the earlier Children's Boards, their lack of statutory powers can render them ineffective. Further problems arise in relation to their low public profile and their reliance on professionals for their functioning. That is, there is generally no contact between the panels and the family. While greater powers are attached to the Office of the Commissioner for Children,<sup>16</sup> the focus of this Office is necessarily on children and young persons and parents are again unrepresented.

While the chapter presents an analysis of the detail of the legislation, it is important to note that practices under the legislation are also informed by the wider context outlined in chapters four and nine. That is, some aspects of the legislation are likely to be less problematic in a context in which parental *mana* has not been so comprehensively eroded.

**Chapter Six** introduces the qualitative dimension of this thesis. In doing so, it demonstrates the practical consequences of current policy and practices on the lives of parents struggling to assist their children's navigation of the path from childhood to adulthood, a path that, for these families, does not provide an easy transition. The private faces of the two families introduced in the opening pages of this thesis are presented as a means of signalling other types of problems faced by the families, but absent from the public accounts. The negative representation of the parents, which is evident in the public faces of the families, is shown to be a partial and inaccurate representation. These are not perfect parents, but nor are they indifferent or inadequate. Their common aim is the safe passage of their offspring on the journey from childhood to adulthood.

The parents' private worlds also provide an insight into the aspects of their experiences from which the eventual themes of the qualitative analysis were derived. There are a number of constants in their experiences, themes drawn from their experiences, which are introduced in this chapter, but developed more fully in the following chapters. These themes - ignorance, isolation and impotence - are defined and discussed in relation to the overarching theme of frustration, a theme evident in both their experiences and the tone of the personal interviews. Determining the causes of their frustration provided the basis for determining the other three themes, all of which have significant negative

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<sup>16</sup> The Office of the Commissioner for Children is discussed more fully on page 31.

connotations. They are not intended, however, as direct descriptions of the parents, though at times this is the case. More properly, the themes should be regarded as characteristic of the position of parents and the context in which they operate, both of which are largely determined by external factors, rather than by the parents' personal capacities. Because the themes are integrally bound to context, at times they also apply to others operating in the child welfare sector. The dynamism of the themes is also noted. The themes interact and overlap throughout the parents' experiences, sometimes in a linear fashion, sometimes with greater complexity. Unfamiliarity with the territory (ignorance), for instance, leaves parents isolated from assistance, which in turn leaves them unable to change or manage the *at risk* behaviours (impotence). The linear dynamics evident in this process, however, belie the complexity of the situations and interrelationships with which the parents are frequently confronted. It is not always the case that resolving ignorance (discovering avenues of assistance, for instance) will resolve isolation or impotence and any or all of the themes may recur throughout the parents' experiences, fostering and characterised by further frustration.

The chapter outlines the parents' experiences with early problems, providing a broad range of problems which are met by a variety of responses, though the parents initially attempted to resolve problems themselves. Some sought assistance through private means - counsellors or doctors, for instance. Extended family was sometimes approached by those for whom it was an option. Though the assistance provided by the extended family was appreciated, it did not provide resolution of the problems for any of the families and at times simply replicated the experiences of the parents. Initial awareness of possible avenues of assistance was low amongst the parents. This ignorance is discussed in relation to parental expectations of their parenting careers and the consequences of the lesser likelihood of behavioural rather than medical problems with their offspring. Because child health problems are a more expected component of the parenting career, appropriate responses and awareness of avenues of assistance are significantly more embedded in the public consciousness than is knowledge pertaining to the child welfare sector. The parents' ignorance (and the isolation engendered by it), is therefore understandable and does not reflect inherent inadequacy.

The chapter then examines approaches by the parents to official avenues of assistance, along with those cases in which contact was initiated by the professionals. The type of agency approached by the parents was generally determined by the sorts of behaviours their offspring were exhibiting. Schools were commonly approached, or approached the



parents, with mixed results. For some families, the school provided access to extended services, while for others the involvement with the school was marked by frustration. This was particularly the case where parents and the school agreed on the need for assistance or intervention, but referral did not eventuate. Where referral to further services was enabled, subsequent experiences highlighted the paucity of services and facilities available in the child welfare sector. Approaches to and from the police are also presented. The most common reason for approaches to the police was absconding by young persons. Though generally responsive in the first instance, the police frequently failed to provide substantive assistance or referral to other agencies. Where the parents were approached by the police, it was usually as a result of offending by their offspring. In these cases, the actions of the police were generally more positive and extensive – and more likely to effect change in the young person. Police involvement in three of the cases was initiated by young persons, alleging mistreatment by the parents. Again, the response was more extensive, though none of the complaints resulted in action against the parents.

Despite contact with these professionals, the parents' ignorance, isolation and impotence frequently remained unresolved. Similarly, problems with their offspring's behaviour persisted. For most of the parents the first point of contact with official helping agencies failed to produce assistance or referral to further avenues of assistance. The initial frustration engendered by their unfamiliarity with the territory continued despite contact with the professionals. The need for further assistance was therefore indicated.

**Chapter Seven** continues the parents' stories as they experienced continuing or escalating problems with their children. The greater part of this chapter is devoted to the parents' interactions with the Department of Child, Youth and Family Services (CYF). All but one of the families had some contact with this agency, though the one exception also provides an insight into problems in the child welfare sector. While this parent's negative perception of CYF was extreme, its foundation (primarily in media constructions of the service) was common to all the parents and tended to foster a more critical approach to interactions with the agency. All the parents were aware of the existence of CYF, though there was a generally poor understanding of its operation. Contact with the agency did not ensure that this was alleviated, or that help would be forthcoming.

Several of the families approached CYF of their own volition, seeking either direct assistance or advice on possible alternate avenues of assistance. They were uniformly

unsuccessful in the former endeavour and only marginally successful in the latter. The common reason for denial of assistance by CYF (with the exception of one unusual and erroneous refusal, relating to income) related to the degree of severity of the *at risk* behaviour engaged in by the young persons. While it is accepted that there must be some applicable minimum degree of severity, it is argued that the relevant boundary is heavily influenced in practice by resource considerations. The professionals consistently denied assistance to families on the grounds that the problem was insufficiently severe, despite drug and alcohol abuse, absconding, promiscuity, aggression, truancy and offences such as theft and vandalism by teens as young as thirteen years of age. Resource constraints require that assistance is accorded to the worst cases and the behaviours described here did not meet this criterion. This rationing was evident irrespective of whether the parents approached the agency themselves or their child was referred via other means. When the child was referred by other agencies or professionals, the initial response from CYF entailed active intervention, but rationing became a feature in that more extensive intervention was frequently denied on the grounds of insufficient severity of the problems. Frustration also emanated from repeated incidents in which the professionals expressed a reluctance to intervene, particularly in terms of physical contact. The combination of resource constraints and caution in regard to the legal rights of the child effectively enabled some of the young persons to continue to engage in anti-social, self-destructive behaviours with impunity. It also served to demoralise and further disempower the parents.

The parents' inability to mobilise the services of the child welfare network was not reflected in those cases where contact was initiated by their offspring. These cases invariably involved allegations against the parents and, while isolation and impotence are expected corollaries of intervention in such cases, ignorance was also a significant feature. The parents faced considerable difficulties in accessing information regarding the whereabouts of their child, the process in which they were embroiled and the nature of the allegations. Further problems with information flow stemmed from the nature of the allegations, since the parents' reactions were likely to be defensive and dialogue became guarded. This circumstance also pertains where allegations are of a more minor nature or are poorly defined. In the most serious case, involving allegations of sexual abuse, the parents enlisted the assistance of the extended family to refute the allegations and secure their daughter's return. Their experiences, however, did little to relieve their

ignorance and isolation and they are averse to further contact with CYF in addressing their daughter's continuing problems.

Two families were affected by their offspring's assertion that differences between parent and child were so severe as to require that they leave the family home. This was enabled through provision of a state benefit to the young person, the entire process completed without consultation with the parents in both cases. In all cases involving child-initiated contact with CYF, contact between CYF and the parents occurred as a result of the parents' efforts. The parents were unsuccessful in reversing the decision to grant a state benefit and frustrated by their irrelevance to the process. Thus, while the children were significantly more successful than parents in mobilising the child welfare sector in the first instance, they were also significantly more effective in influencing the professionals during the ensuing processes. One parent encountered considerably more success in this regard and her experiences reflect the role of knowledge in affecting outcomes. Her professional familiarity with the types of systems, processes and culture she was likely to encounter, coupled with the personal network available to her, enabled her to negotiate this territory more adeptly.

**Chapter Eight** examines further sources of disempowerment in the experiences related by the parents. As the previous chapter indicated, resolving problems relating to information and knowledge empowers the parents considerably. Access to reliable, consistent information is therefore crucial to the parents' attempts to address their offspring's behaviour. It was their expectation that the professionals would fill the gaps in their knowledge, though the first point of contact often failed in this regard. The parents generally had little knowledge of their rights and reported difficulties in accessing information on the matter. They had greater knowledge of their children's rights - often imparted to them by their children. This translated into a perception that they had few rights of their own, while their children's rights were extensive and necessarily in conflict with parents' rights. The professionals did not correct this perception and at times reinforced it. When information from the professionals was forthcoming, it was often confusing or contradictory.

Parents who sought assistance when their children absconded also sought advice in regard to the legal constraints applying to themselves and the police, particularly in regard to the use of physical force when children were found, but were unwilling to return home. Multiple contacts with the police served to increase confusion, with some advising that force was permissible, while others expounded the opposite view. Parents

also struggled with misinformation from the professionals, often unaware that the information they had received was incorrect or misleading. None of the parents was initially aware of their right to refuse to continue to care for their child or to demand temporary respite - a particular concern for parents whose offspring had become aggressive. This misconception was not resolved by the professionals and, again, the inadequacy of resources is implicated. Advising parents of their right to temporary respite would have resulted in the commitment of resources to accommodate the child - in a sector already struggling to accommodate more serious cases. Misinformation was also imparted in regard to the corporal punishment of children. Most of the parents believed that this was unlawful in New Zealand and their misconception was reinforced by the police, reflecting the predominance of child advocacy and the relative insignificance attached to the parents' position. The parents tended to assume that the information imparted by the professionals was accurate and therefore did not seek further information.

The parents were also disempowered by failures in ensuring children were held accountable. Their own efforts were readily undermined in those instances where penalties for offending were not completed and the failure to comply was ignored by the professionals. At other times inaction by the professionals was justified in terms of legal constraints relating to the prosecution of children and young persons. Again there is an element of deception involved, since other options were available. Denying assistance to the parents and imparting incorrect information are indicative of a particular attitude towards parents. At times, the perceptions informing this attitude were explicit, with some parents openly derided by the professionals. Other criticisms of the parents were implied, though no less alienating, and both suggest parental complicity in the occurrence of *at risk* behaviour. This further disempowers the parents, as is evidenced by their lack of voice in the processes they encountered. The one parent who successfully influenced the professionals was keenly aware of the advantages of her greater knowledge and cognisant of the disempowering aspects of the process on those with fewer personal resources.

As might be expected from the experiences related by the parents, their assessments of the various avenues of assistance were less than positive. Although acknowledging occasional positive contributions by CYF, the parents were largely dissatisfied with their involvement with the agency. The police, schools and other professionals were assessed more kindly, though were generally also found to be unsupportive. The parents'

struggles are continuing and complex, though the nature of the research process often belies this fact. Their stories are captured at a particular point in their journeys, and, while all reflect on past experiences leading to that point, there is a strong sense of uncertainty regarding the future for many of the parents. The experiences they relate serve to explain a good measure of this foreboding, much of which is related to their interactions with child welfare professionals. While there is a certain inevitability regarding the criticisms directed at the professionals, it is not the intention of this research to impugn this group, for they too, are part of a wider context over which these actors have little control.

Although a number of factors emerged from the interviews as possible explanations for the negative experiences of the parents, most were inadequate in explaining the full range of problems recounted. Children's rights, problems with the legislation, the relative power of the professionals and resource constraints were all implicated, but none applied universally. The parents' inability to influence the professionals and the professionals' tendency to disregard the parents indicate a potential explanatory factor. The treatment accorded to the parents suggests a low valuation of parents by the professionals, though their interactions with the parents were minimal in some cases and provided insufficient grounds on which to base this valuation. Poor perceptions of parents at the wider level are therefore implicated. The disempowerment of the parents evident in the parents' stories is best explained by the contention that parental *mana* has been eroded to the extent that it jeopardises the fulfillment of their parental responsibilities in both the public and private spheres. The extent and nature of the erosion is better understood in its historical context and with reference to the current social climate.

**Chapter Nine** examines salient features of the social context in which the parents, their children and the professionals operate at the dawn of the twenty-first century. The major focus is on the unintended consequences of well-intentioned initiatives to promote the rights and wellbeing of children and young persons. The chapter begins, however, by examining an aspect of the social context in which the erosion of parental *mana* is less unintentional - erosion connected with popular notions of the concept of family. There is a discussion of the difficulties of establishing definitions of family and the myth of the nuclear family is revisited. Long popularly accepted as the norm, the nuclear family - or rather, its demise - features prominently in the rhetoric of the New Right in attempts to explain an alleged social malaise deemed to be permeating western societies. While there is now less emphasis on family form, the perceived loss or breakdown of the values

associated with the nuclear family now permits criticism of family across all family types. Such criticism is explicit in the rhetoric and necessarily targeted at parents, since the other major component of families (children) cannot be held responsible for family demise.

The focus on children's rights at the national and international level is visited, noting the historical fluidity of rights and the current disfavour accorded to asymmetric relationships, a relationship which historically typifies that between parent and child. Implicit in the rights movement is the image of parents as oppressors, though, unlike their counterparts in the movements for black and women's rights, parents have no political voice with which to answer their inherent demonisation. The movement also fosters perceptions of a conflict between children's rights and parents' rights, though this is argued to be misleading. In general, the conflict reflects little more than the longstanding tension between protection and autonomy. The distinction between liberty rights and claim rights is used to examine the tension between the need to protect children and the desire for individual autonomy. The state has become increasingly involved in this previously private domain and has been instrumental in shifting the emphasis from parents' rights to parental responsibilities or duties. The view of parents as bound by duties rather than empowered by rights impacts on their relationship with their children and the state. The developmental approach, noted as implicit in the legislation, is presented as conflicting with a children's rights approach, though it is the latter approach which increasingly influences policy and practice.

The adoption of a rights approach has necessitated enshrining rights in law, as has the imperative to ensure children's protection from abuse, neglect and exploitation. The resultant tendency towards increasing legalism, which was part of a larger tendency characteristic of modern, western societies, is argued to be inappropriate in the family domain. Given that a legalistic approach contributes to problems in the family arena, greater prescription of parental rights is not advocated. The context in which legislation is embedded is presented as integral to the operationalisation of the legislation - and to its consequences. The current context, imbued with a high valuation on equality and autonomy, informed by a children's rights ethos and characterised by legalism, serves to further undermine the position of parents.

The chapter also examines initiatives undertaken in the interests of ensuring and improving the wellbeing and consideration of children and young persons, but which have engendered unintended, adverse consequences for parents and their *mana*. The

focus on children's rights is given practical expression in the establishment of the Office of the Commissioner for Children. Though established and operating under the Act, the functions of the Office extend beyond matters directly related to the Act. Fundamentally guided by the United Nations Convention on the Rights of the Child, the Office provides advocacy for children and young persons in areas ranging from education and health to the courts and children's rights *per se*. The Office works to raise the profile of children's rights and, in doing so, contributes to perceptions of a conflict between parents' rights and children's rights. Despite the emphasis on child advocacy, however, evidence - particularly in the health arena - suggests that, ultimate decision-making power rests with the professionals, rather than with children, young persons or their parents.

Also problematic for parents were the increasing recognition of, and initiatives addressing, child abuse and neglect. Measures to increase awareness and understanding of child abuse began in earnest from the mid-1970s, though the Child Welfare Division had begun serious investigation of the incidence of the problem a decade earlier. A 1967 survey suggested that two or three children in every ten thousand children under sixteen were likely to come to their attention as a result of abuse. By the 1980s public education programmes had become part of the strategy by which the safety of children was to be enhanced, if not assured. Initially aimed at increasing awareness among children and the wider community of the danger of approaches by strangers, publicity campaigns eventually extended to promoting awareness of cycles of physical, emotional and verbal abuse. Abusers were no longer strangers, but likely to live in close proximity to the victim, and most likely to be parents. Raising awareness of the problem therefore served to further demonise parents and also served to broaden the range of people now involved in the surveillance of parents. The agents of the state were joined by friends, neighbours, relatives and the children themselves in this task. Publicity campaigns designed to inform and educate have tended to cast a darkening shadow over all parents, further undermining their *mana* and creating an environment of suspicion and mistrust in which their children were also enveloped.

The historical erosion of parental *mana* has not been confined to the child welfare sector. The tendency to attribute the causes of *at risk* behaviour to parents has permeated the wider society. The pervasiveness of the tendency to blame parents is apparent in media reports on all manner of topics. While the practice is understandable in reports of child abuse and neglect, and may have some relevance in reports of juvenile crime, there has

developed a tendency to relate a broad range of topics to parental performance. Implicit and explicit criticisms of parents are evident in reports on topics ranging from driver education to business leadership and occur in the full range of media instruments. The resulting negative images of parents signal the ease with which parents are now constructed as deficient and assists in perpetuating a climate that fosters further erosions of parental *mana*.

**Chapter Ten** synthesises the qualitative and critical dimensions of the research. The public faces of the parents are juxtaposed with their private faces, providing some explanation of the negative aspects of their public images and the factors that allowed the generation of the negative images. The juxtaposition indicates a need to extend the research in order to explain better the disparities between the two images. The revelation of the parents' private faces served to release the parents from the negative images in the public accounts. The parents' experiences gave voice to a range of seldom acknowledged challenges to the successful completion of the parenting task. Explanation of these challenges requires examination of conditions and circumstances not immediately apparent in the public or private accounts. The parents' experiences with aspects of the child welfare sector - the legislation and its operationalisation - are therefore drawn into the synthesis.

The legislation explained some of the frustrations of the parents. Parents were unable to activate the processes of the child welfare sector, though their children were uniformly successful in this respect. Responsibilities pertained to parents but not to the state in similar circumstances and the state was accorded rights in regard to children and young persons which were not available to parents. Parents also found little administrative or procedural assistance available. The paramountcy principle fostered a demarcation between parents and the professionals which acted to undermine the intentions of the Act. The implementation process posed further challenges to the parents, particularly the effects of resource constraints. Rationing was evident in initial approaches to CYF and during more extensive interactions, further undermining the intentions of the legislation. The attitudes and behaviours of the professionals were also problematic. Parents' opinions were accorded little validity by the professionals and the parents were increasingly excluded from the decision making process. They were also subjected to criticisms in regard to their parenting abilities, underscoring a pervasive absence of empathy with the parents and leaving them demoralised and further disempowered.



The experiences of the parents within the child welfare sector reflect the cumulative effects of developments within the sector over time. The history of the sector is therefore added to the synthesis. A gradual erosion of parental *mana* occurs in tandem with the elevation of children, largely due to an uncompromising insistence on viewing parents as causes of the problems of childhood. The parent-child relationship became subject to governance and monitoring by the state, which assumed an explicit role in the socialisation of children. The terrain was further complicated by the advent of an appreciation of the skills of science, the privileging of expertise and the professionalisation of parenthood. The psychological dimension was added to the determinations of proper parenting and in the latter part of the twentieth century a growing awareness of children's rights posed further challenges for parents. Inherent aspects of the rights movement, particularly notions of equality and autonomy, further undermined parental *mana*, though the conflict between children's rights and parents' rights is argued to be misconceived. Initiatives introduced to ensure the protection of children and their rights demonstrate the capacity to further undermine parents, as do the criticisms inherent in the debate surrounding the demise of the family.

The association of social problems with family dysfunction is part of the current context in which parents, children and the state operate and this too is drawn into the synthesis. The New Right ideology which informs the context in which the current legislation is operationalised seriously challenged the capacities of families and communities to meet the responsibilities attached to their empowerment under the Act in that the rhetoric of empowerment was not matched by the provision of adequate and appropriate services and resources. The tendency for negative constructions of parents entered the public domain, fostering a continuation of the downward spiral of parental *mana*.

There are clear overlaps and interactions within and between the contextual and thematic aspects of the research. The context and themes overlap and interact to extend and exacerbate the parents' problems, but, considered together, they also combine to enable an explanation of the experiences of the parents and the incongruence between their public and private faces. This explanation shifts the focus from assumptions of inadequate parental capacity and conflicts concerned with rights to factors over which the parents, and to some extent the professionals, have little control.

The synthesis leads to the contention that the current legislation and, to a greater extent, its operationalisation reflect the effects of an historical and continuing (though largely unintended) erosion of parental *mana*. The devaluation of parents is associative rather

than intentional, but its effects are cumulative and continuing, resulting in parents being progressively problematised, marginalised and disempowered. The combined effect of historical change and negative images of parents has affected parental *mana* to the extent that they no longer have the means to meet their parental obligations adequately.

The chapter concludes with a consideration of possible solutions to the problems experienced by the parents. Restoring a positive perception of parents is argued to be fundamental to the effective parenting of *at risk* offspring. It is further argued that this process should begin within the sector in which the devaluation of parents was initiated. The congruence of the aims of child advocates and parents is noted and promoted as a possible means of advancing the interests of both. Along with the need for a parental perspective in the processes of policy formulation and monitoring, the need for further sociological research into the conditions of parenthood is noted. Questions generated in the process of undertaking this thesis provide suggestions for further research.

## CHAPTER TWO

### Methodology

As is often the case, this research at times took on a life of its own. There were points at which the participants in the research assisted in refining the specific topic area in a manner demonstrative of the researcher as a research instrument and partner in the discovery process. While this is in many respects an inherent aspect of the particular methodology employed in this research, it also assuages to some extent concerns regarding the power imbalance which often occurs between researcher and subjects.<sup>1</sup> This is not to say the research was undertaken non-reflexively. Indeed, the impact of the topic and participants on the development of the research process was itself cause for reflection. The result is engagement with mixed method research, involving a number of techniques, which might be interpreted as indicative of an uncertain and inexperienced researcher. Alternatively, it can be viewed as the signature of a researcher with a keen appreciation of the merits and limitations of various approaches and the difficulties of developing an holistic account of the phenomenon under study.

This chapter delineates the path this project has taken, from initial rejection of the topic area to eventual refinement of the specific topic and how to address it. In this respect the design of the research was emergent, rather than pre-specified, and, in combining approaches, the project may be seen as both generating and attempting to verify theory. The selection of participants, interview technique and data analysis are described, along with the relevant ethical considerations. The process of setting the parents' stories in context - both historical and contemporary - is outlined and justified. Description of the process is preceded by a discussion of the overall approach to the project, with particular attention paid to the matter of bias in research and its connection with advocacy and critical theory.

#### *The overall approach*

The methodology applied in this thesis combines an interpretive approach with critical analysis. A broadly ethnographic approach informs the data collection and the resulting description of the lived experiences of the subjects during a particular phase of their lives.

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<sup>1</sup>Even here, however, there is a danger, common in qualitative studies, wherein there is an "implicit assumption of the author as hero" (Schatz and Walker, 1995, p.137). In addition to this imbalance, there also remains a distinct power imbalance across social research that results in the powerful gaining information and insights in regard to the powerless, while the reverse is neglected (Nicolaus, 1968, in Lewis, G [Ed] p.248).

This aspect of the project was engaged in order to demonstrate the existence and nature of problems in the parent/child/state nexus. It is amongst those at the margins of society that problems in social relationships often become apparent in that it is not until social relationships are under stress or in crisis that problems in those relationships become evident. While the subjects of this research represent diverse socio-economic and cultural backgrounds, in one aspect they share a common characteristic by which they fall outside the mainstream. Most parents survive the teenage years of their offspring without the need for external intervention. A small percentage of children and young persons, and their parents, find themselves at the margins and thereby enmeshed in the institutional nexus that seeks to regulate relationships between parents, children and the state. Because these families are not the norm, an ethnographic approach is ideally suited to the exploration of the problems they encounter:

Ethnography is actively situated *between* powerful systems of meaning. It poses its questions at the boundaries of civilisations, cultures, classes, races and genders. Ethnography codes and recodes, telling the grounds of collective order and diversity, inclusion and exclusion.

(Clifford and Marcus, 1986, pp.2-3)

An ethnographic approach in present day sociology varies considerably from that which applies in anthropology, examining aspects of life or sets of social relations, rather than the minutiae of everyday life of a whole society.<sup>2</sup> This project takes such an approach and examines the lived experiences of the subjects through their recollections of the experiences as related in personal interviews. The interviews essentially result in topical life histories<sup>3</sup>, which were originally intended to be presented with a single purpose - to give voice to a section of the community which ordinarily has no voice. The life history method is an investigative methodology which attempts to depict the "immediate lived experience as actual members in everyday society experience them" (Armstrong, 1987, p.5). By placing the ultimate test for truth in experience, the life history aims to grasp objectively these lived experiences, to record the inner life of the subject (Denzin, 1970, p.220). In documenting how the subject perceives events and experiences and defines the world, the resulting data is descriptive and qualitative. Their stories were initially analysed thematically, discerning patterns of meanings, actions and experiences.

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<sup>2</sup> For an exploration of the distinctions between anthropological ethnography, modern sociological ethnography and feminist research, see Rountree, 1993, pp.154-61.

<sup>3</sup> A topical life history covers just one phase of the subject's life and as such the researcher is required to direct the interview to some extent.

While the parents' accounts could conceivably have stood alone as representations of their experiences, as permanent records of the plight of a number of families in crisis, the nature of their problems was such that mere description of their plight was not sufficient. Since "explanatory knowledge is more powerful than descriptive knowledge" (Punch, 1998, p.15), the analysis was extended. This was in part prompted by ideas generated by the data in the stories shared and in part by the imperative to ensure that these were not merely voices in the wilderness. Frequently a life history neither needs nor warrants analysis or interpretation, but is presented in its entirety as its own social commentary. Although this allows a voice for those previously unheard, the question must be asked, "Who is listening?" That voice can be meaningless unless it can access the corridors of power, unless it mobilises collective action to transform the system that originally marginalised the speaker (Sampson, 1993, p.1219). Addressing this aspect therefore required finding a means by which the distress and frustration so often encountered by the parents could be explained.

Revisiting the interview data, recoding it and discerning links and interrelationships among the resulting concepts eventually led to a core category, a theory, grounded in the data, which provided a possible explanation for the negative experiences of the subjects. This process of analytic induction (originally developed as part of the search for universals in social life [Znaniecki, 1934]), today refers to the "systematic examination of similarities between cases to develop concepts or ideas" (Punch, 1998, pp.201-2). With some initial notion of the phenomenon as a starting point, cases are investigated with a view to discerning potential explanatory features. This allows the formulation of a hypothetical explanation, which is tested via further exploration of the data. If there is no fit, the hypothesis may be reformulated or the phenomenon may need to be redefined.<sup>4</sup>

Despite being "the most widely employed interpretive strategy in the social sciences today" (Denzin and Lincoln, 1994, p.204), grounded theory dates back only to the 1960s. It is engaged here because of its potential to develop theory to explain what is central in the data.<sup>5</sup> The goal was to enter the worlds represented by the participants and make sense of them from the standpoint of a theory that is grounded in the actions, interactions, definitions, attitudes and feelings of the subjects. Again, this process and

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<sup>4</sup> See Hammersley and Atkinson, 1995, for a more detailed description of the process.

<sup>5</sup> See Strauss and Corbin, 1990 and 1997; Glaser, 1992; Glaser and Strauss, 1967, for the history, development, process and purposes of grounded theory.

the resultant explanation might have stood alone. The theory could be tested against the subjects' lived experiences and its accuracy could thereby be validated. Herein lies one of the dilemmas of grounded theory. Since the theory is grounded in the data, reliable, valid and systematic analysis and conceptualisation predisposes the process to self-verification. Furthermore, the process does not allow assumptions within the theory generated by the process to be explored or tested. Thus, just as mere description of the problem was inadequate, so too was the presentation of a grounded theory in the absence of some sort of test of its implicit assumptions. To this end, a second methodology was engaged.

The second methodological dimension of this research - critical analysis - was employed as a means of contextualising the participants' stories, and through that, testing the rigour of the theory generated from the interview data. It was not sufficient, however, merely to embed their accounts in current culture, legislation and practice. An historical-comparative analysis of past and current legislation and practices examining the historical underpinnings of the parent/child/state nexus would assist in making sense of the data, and test assumptions behind the theory. It would serve these parents more aptly than a simple narration or a contextualisation that failed to account for the dynamism in the nexus that is associated with historical change. The problems of generalising from a qualitative study could also be mitigated to some extent if the critical analysis could demonstrate substantive structural elements directly related to the parents' problems. The analysis was undertaken from a parental perspective. That is, it examined the current and historical context in terms of the relative power, position and perception of parents. Of necessity, this meant that other important perspectives were ignored or subsumed at times. That is the nature of critical analysis - there is no claim to universality. The accumulation of multiple critical perspectives, however, can assist in developing a more holistic understanding in the long term. In the discourses and social practices constituting the child welfare arena, the parents' perspective must be among those completing the picture.

Linking the personal experiences of the parents to the historical and social context in which they are embedded avoids presenting on the one hand, an entirely subjectivist account unrelated to the structures which shape meanings and behaviours, or, alternatively, an entirely structural account devoid of social actors. With its roots in the Frankfurt School's concern to restore "ideology, human intentionality and reflexivity back into Marxist theory" (Young and Arrigo, 1999, p.128), critical theory, particularly as espoused by Habermas, insists on a normative foundation from which to critique

Western rationality and metaphysics.<sup>6</sup> In this, the method reflects acknowledgment of an objective, external reality and this stance represents a deliberate rejection of postmodernism's abandonment of rationality and reason in favour of a particularistic and deconstructive approach. The problems surrounding assumptions as to the nature of reality aside for the moment, the critical approach enables an interpretive account at both the micro and macro level.

Critical theory seeks to show the practical, moral and political significance of particular communicative actions, speech acts (Austin, 1961; Searle, 1969), and nonverbal communications more generally. ... Critical theory can thus be seen as a structural phenomenology. It is a phenomenology because it attends to the skilled and contingent social construction and negotiation of intersubjective meanings. It is structural because it attends to the historical stage on which social actors meet, speak, conflict, listen or engage with one another. Ontologically, it marries subjectivist and objectivist positions. Human actors make sense of daily life subjectively, through communicative interaction, but 'sense' depends on context or setting - the objective social structure in which those actors work and live.

(Forester, 1983, p.235)

Through a critical analysis of the parent/child/state nexus, then, it may be possible to "recognise, anticipate, and counter those systematic, socially unnecessary distortions" (Forester, 1983, p.246) which have acted together to produce the distress evident in the parents' experiences.

### ***Choosing the approach***

Before embarking on a description of the research process, there is a need to discuss aspects of the methodology employed here. The possible approaches for undertaking an examination of this topic fall into two broad categories - the interpretive-advocacy approach and the formal-operational (positivist) approach (Bainbridge, 1992, p.2).<sup>7</sup> Both of these represent a particular paradigm founded on a particular theory of knowledge, and as such, neither is classifiable as value-free. It is not intended that the qualitative/quantitative debate be revisited here in detail. Rather, the reasons for adopting one approach in preference to the other are outlined.

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<sup>6</sup> See Habermas, 1971, 1973, 1976, 1979.

<sup>7</sup> It is acknowledged that some view critical theory as a third paradigm, and to some extent the distinction is justified (see Neuman, 1994, Chapter 4). Since critical theorists adopt a range of methods from both the quantitative and qualitative paradigms, and since advocacy is included here in the interpretive approach, the distinction is relevant only to the extent that this project adopts a strong advocacy perspective. The purpose of critical research - exploding myths, uncovering hidden truths and initiating change - are equally applicable to good research in either of the two major paradigms. The particular theory of knowledge to which critical theorists subscribe is no more or less open to

Having taken the decision to explore the experiences of parents caught in the nexus mentioned above, I faced a further challenge in establishing how the research might be best effected. My history and heritage predisposed me toward a particular paradigm. Raised and educated within decidedly rationalist social environs, and with an affinity to the hypothetico-deductive approach, I was none the less aware that a quantitative approach might be the least effective methodology in this case. There was a need to allow the voices of the parents to be heard, for their difficulties to be explored and exposed. Although personally inclined to a positivist approach to research, in this case the inclination was duly dismissed, for inherent in a quantitative approach was the risk of losing the very voices that prompted the research.<sup>8</sup> That is, despite the usefulness of a statistical approach, one of its weaknesses is the tendency to overlook or misrepresent socially relevant reality and this is particularly true for those sections of the community who occupy the margins (Reichardt and Rallis, 1994). The theory-building nature of qualitative research (as opposed to the theory-verifying nature of quantitative research)<sup>9</sup>, however, is helpful in raising consciousness and developing understanding of social life. The interpretivist approach emphasises the importance of meaning and subjective experience in social life, while the positivist approach adopts a more external, objective and impersonal standpoint (Layder, 1993, p.5). The interpretivist approach therefore offered greater promise in allowing the parents a voice, while at the same time allowing the generation of an explanatory theory, and was therefore deemed more appropriate.

The choice of an interpretive approach represents not so much a personal transfer from a quantitative framework to a qualitative framework - since I had acquired an appreciation of the relative merits and limitations of each - but rather an acceptance that the most useful paradigm for this project happened to be the one with which I was less familiar and to which I was less accustomed. The choice of methodology employed then, was driven by the research topic itself, by the types of questions involved, and was decided on pragmatic, rather than philosophical, grounds.<sup>10</sup> That is, considerations regarding the nature of reality were secondary to considerations regarding the best fit

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challenge than any other theory of knowledge and there is merit in allowing each its own contribution to the goal of increased understanding.

<sup>8</sup> There were, of course, practical considerations affecting the decision - access to the relevant population, sampling methods, costs etc. In the event, little consideration was given to these aspects as the representation of the parents' stories was always paramount and best effected through a qualitative approach.

<sup>9</sup> It is acknowledged that these are generalisations and that theory building or theory testing is not exclusive to either paradigm.

<sup>10</sup> See Punch, 1998, for a discussion on the ways in which topic affects the choice of approach.



between the research topic and the methodology. The systematic development of a grounded theory (though this is admittedly inductive, as opposed to deductive) and the critical analysis that augments the project (since critical analysis rests on a view of society as an existing structure which determines the social conditions that shape behaviour), however, allowed a good measure of the rationalist to be employed. The combined approach - mixed method research<sup>11</sup> - engaged in the project does not occur at all levels. That is, the data from the interviews is kept separate from the data used for the critical analysis. It is with the findings of each approach, in the relation of the parents' experiences to the historical underpinnings of the current context, that the synthesis takes place.

### ***Bias in the research process***

The debates surrounding the relative merits and limitations of the two main approaches to research have been addressed comprehensively in recent years.<sup>12</sup> Much of the debate has centred on the nature of reality, and the truth claims of the respective paradigms, leading inevitably to challenges regarding validity. It is fair to say that debates surrounding these issues have, at the very least, engendered a (sometimes grudging) developing acknowledgment in recent times that neither paradigm is inherently superior, that some types of research topics lend themselves better to a particular epistemology (see Punch, 1998, especially Chapter 11), and that all research is affected and informed by its social location. The sharp dichotomy once drawn between the two paradigms has become increasingly less distinct (see Hammersley, 1992). It is no longer a question of whether or not bias exists, but rather acknowledging its existence and whom it might serve (Gitlin *et al*, 1989, p.245). That is, the topic, the methodology, the analysis and the outcome are all informed by a particular ideological perspective which is in turn shaped by the researcher's time, place and experiences. All research is undertaken and presented from someone's point of view (Becker, 1967,) and it is not possible to divorce oneself completely from one's personal history and heritage.

Despite the obvious connections between bias, objectivity and validity, when understood in the light of Becker's analysis, it is argued that there is little to be gained by rejecting

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<sup>11</sup> See Hammersley, 1992, Miles and Huberman, 1994 and Punch, 1998 for discussions of the merits and advantages of mixed method research.

<sup>12</sup> See Reichardt and Rallis, 1994; Creswell, 1994; Hammersley, 1993; Brannen, 1992; Glassner and Moreno, 1989.

research on the grounds of bias. If bias is inherent in any paradigm, and social location affects all research, it is inconsistent for those who deny the possibility of value-free research to criticise research for failing to achieve what they have already stated cannot be achieved. Both the project and the profession are better served by an acknowledgement of any bias and limitations inherent in the project.<sup>13</sup>

The problem inherent in this acknowledgement is that bias, though inevitable, remains problematic and is pertinent to this research at three levels. The first of these relates to the researcher's proximity to the topic area (which is outlined later in the chapter), the second involves the subjective accounts of the participants, and the third stems from the acknowledged partisanship of a critical approach. Because of these aspects of the present research, the question of bias, rather than the superiority of a particular paradigm, will be discussed here.

Concern regarding bias in social research has been recurrent over the past few decades, though the meaning of the term tends toward ambiguity, with interpretations ranging from a sense of culpable negligence to one of a justified and positive contribution to the knowledge process (Hammersley and Gomm, 1997).<sup>14</sup> That is, some understandings of bias refer to error (which may be systematic or in outcomes, and may arise through either negligence or an understandable misconception, given the time, place and knowledge base of the research) while others refer to the adoption of a stance that deliberately highlights a particular aspect of a phenomenon or takes a purposive perspective. It is this latter understanding into which this project fits, an understanding which continues to attract criticism in some quarters (Hammersley and Gomm, 1997).

Despite the developing consensus surrounding paradigmatic bias, and its consequences in regard to understandings of validity, objectivity, reality and truth, those seeking to elucidate the problem continue to be drawn back to the notion that "truth is the only value that constitutes the goal of research' (Hammersley and Gomm, 1997, para.4.12) and that any goal beyond this constitutes bias. While the point is taken in terms of an absolutely purist account of research, such contentions reflect, yet again, subscription to notions of an objective external reality and universal truths, the very notions which prompted the initial debate. Inevitably, the question again arises, "Whose truth?" None

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<sup>13</sup> This is not to deny that bias is problematic, simply to point out that some forms of bias are a greater threat to validity than others and that the bias associated with social location or a particular paradigm is less problematic in that it is now widely recognised and acknowledged.

<sup>14</sup> See Hammersley and Gomm, 1997, for an excellent discussion of bias in social research, though their conclusions would seem to revert to a position that is at once both relativist and positivist.

the less, it is fair to say that knowledge and understanding are what is sought, and these are of little use without some claim to being truthful. This in itself need not exclude either paradigm. For those who subscribe to notions of objective reality, alternate or even conflicting accounts of a phenomenon can be accommodated as providing an indication that further research is required, that techniques need to be refined or that assumptions need to be questioned. Furthermore, the contention that there exists an objective reality need not exclude multiple perspectives, for if reality is acknowledged as complex, that complexity both allows and requires multiple perspectives. For those who subscribe to a qualitative approach, each account is valid in its own right, representing truth or reality as it is experienced by the actor,<sup>15</sup> but may also be seen as one dimension of a greater whole. For those who seek to bring about change, the presentation of alternative perspectives is a means to elucidating hidden truths. The truth goal of research therefore, can be well served by the adoption of approaches which readily acknowledge a particular bias.

While this by no means resolves the debate surrounding the nature of reality, it continues to allow the contributions of diverse approaches a degree of validity. That said, there is a certain sense in adopting the stance that, unless prepared to accept the nihilism of postmodernism, researchers must proceed on the assumption of some sort of objective reality if indeed the improvement of the human condition is the goal of sociology. This need not exclude the possibility that truth is dialogic, rather than absolute. Such an approach rests on the notion that reality is a social construction that achieves its objectivity through mutual meaningfulness. That meaningfulness requires the accommodation of a diversity of views and understandings, with the validity of research grounded in its contribution to mutual understanding.

There is a practical aspect to this matter, one directly related to the critical component of this project. Whether couched in terms of knowledge or truth, most research has a purpose beyond the pursuit of either. That is, researchers - particularly social researchers - tend to be motivated by more than mere curiosity, to have a goal beyond the attainment of truth or knowledge. Historically, social research has been prompted by

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<sup>15</sup> Given the nature of the data collected in interviews, there is also a reality distance problem (Denzin, 1970, p.247). That is, there tends to be a chain of interpretations set up (the subject's perception of an event or experience, followed by the researcher's interpretation of this, followed by the reader's interpretation) that creates difficulties in being sure that what is presented is indeed what was meant. External validity is a particular concern with this method, though problems of internal validity, geographical and temporal closeness, maturational variables in both the researcher and the subject, and ethics are not peculiar to the life history method.

social problems. While the production of knowledge is implicit in the research process, that production is generally purposive - there is a specific problem or phenomenon which requires description, examination or analysis in order to broaden or deepen understanding and, through this, to find ways to avoid, solve or alleviate problems and increase social wellbeing. In this sense research seeking solutions to social problems is always possessed of a goal beyond the pursuit of knowledge, and where the social problem under investigation is specific to a particular group, the research is tantamount to advocacy. It is only sensible that this is so. The pursuit of knowledge as a sole motivation for research is unlikely to sustain many researchers to the completion of the project. A purpose beyond the production of knowledge, a point to the generation of that knowledge, is a requisite motivation for many researchers. Advocacy, of course, suggests bias (and this is compounded by the likelihood that the researcher's social location will influence the choice of who will be the subject of the advocacy), but just as the bias inherent in social location can be accommodated and accounted for, so too, can that relating to advocacy. To remove advocacy from social research is to remove much of its *raison d'être*. As with other forms of (now acknowledged) bias, much more is to be gained by its acknowledgement and acceptance, and a clear statement of the normative orientation and value commitments underpinning the research, than by insistence on its amputation.

In relation to this project then, it is acknowledged that the parents' accounts of their experiences are subjective, that they present reality or truth as experienced by them, and these accounts are subjected to further interpretation by the researcher. Their stories are undoubtedly different from those which would have resulted from interviewing their children, or the professionals involved. Their stories are, however, a critical dimension of the parent/child/state nexus that requires close consideration. Similarly, the historical and contextual analysis that accompanies their stories is also undertaken from a particular perspective (parental), for if the parents' stories are important, so too is the need to alleviate their distress. That is the point of this project - the motivation for seeking the knowledge or truth that pertains in the area under study - and it is driven by a reluctance to accept that the distress of these families is simply a matter of parental inadequacy.

While it is contended that there exists a need to examine the child/parent/state nexus from a parental perspective, there is one further aspect connected to bias that merits discussion. All research, whether qualitative or quantitative, is premised on certain basic assumptions relating to the phenomenon under study, such that "in the course of inquiry

about some matters, we necessarily take others for granted” (Hammersley and Gomm, 1997, para.4.8). The validity of these presuppositions can affect the integrity of the research, but “in the absence of a foundation of absolute givens these can only be matters about which we believe our knowledge to be sound but less than apodictic” (Hammersley and Gomm, 1997, para.4.8). This research contends that parental *mana* has been eroded to a point at which the fulfillment of parental responsibilities is jeopardised. Behind this contention is an assumption of deterioration in parental efficacy over the last century and a half. If this assumption is correct, there will be evidence of a corresponding increase in youth problems emanating from the reduced parenting capacity. This research assumes that this is indeed the case, though establishing the validity of the assumption is problematic.

Establishing the validity of the assumption suggests the need to examine statistics relating to indicators of the wellbeing of children and young persons. Certainly youth suicide rates in New Zealand indicate that all is not well, though any direct relationship to parenting remains to be established. Statistics covering crime or court appearances are unhelpful for a number of reasons. While steady increases can be plotted for a good part of the twentieth century in New Zealand (for example, court appearances rose from less than 2000 in 1948 to more than 13000 in 1971 [Dalley, 1998, p.192]), at other times the statistics show improvements, particularly in the latter part of the twentieth century. Much of this reflects changes in the judicial system - the introduction of the Youth Court, for example – initiated by the Children and Young Persons Act 1974 and extended by the Children Young Persons and their Families Act in 1989. The analysis is confounded by changes in the reporting and recording of crimes, by the types of activities attracting the attention of the authorities<sup>16</sup> and by changes in legislation which disallowed bringing charges against children and young persons except in cases where the crimes were of a sufficient magnitude or number, essentially removing a large section of child and youth offending from the statistics altogether. School suspensions and expulsions have also risen steadily in recent years, but again the connection with parental capacity is unproven. Notifications to the child welfare authorities (CYF) are another possible indicator by which to substantiate the assumption. Again, however, the statistics are inconclusive, since the focus in the latter part of the twentieth century is on abuse

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<sup>16</sup> See Dalley, 1998, pp.102, 111-13, 177-81 which demonstrate possibilities ranging from riding a bicycle on the footpath to sexual promiscuity.

and neglect, with lesser attention paid to youth misconduct.<sup>17</sup> Irrespective of the source, there remains the problem that the data do not include affected families who remain outside the system, families whose struggles never enter into official statistics.

A comprehensive quantitative study of a range of indicators, including those above, might conceivably establish the validity of the assumption, but is well beyond the scope of this research. Similarly, a qualitative study comparing the experiences of parents of previous generations with those of the current generation may assist in validating the assumption. In the absence of absolute givens by either means, however, the assumption falls into the realms of the second part of Hammersley and Gomm's quote - believed to be sound, but not apodictic. Taken as a whole, the indicators above give some sense of an escalation in problems related to parenting. There is also an intrinsic logic in the assumption when considered in the light of the focus on children's rights, for implicit in the focus are perceptions of a tension and potential conflict with parents. A demarcation now exists to an extent not previously witnessed in New Zealand's history.

Human rights, privacy and child welfare legislation, in protecting and promoting children and their interests, offer challenges to parents that were not part of the parenting of previous generations. Of themselves, the Acts need not impinge too greatly on the efficacy of parents, though the increasing legalism attached to the parent/child/state nexus can be problematic. Additionally, the legislation is operationalised by professionals responsible for interpreting and upholding the Acts and, by virtue of their appointment, focussed on the child. The tendency to view children's rights as competing with parental rights (though this assumption is not unequivocally accepted in this research) presents further problems for parents and fosters an adversarial environment. As a result, parents struggling with a recalcitrant child or young person may find themselves facing a daunting array of professionals, standing alongside the child, who, in the performance of their duties, can serve to undermine further the wavering *mana* of the parents. Many of these professionals (school counsellors, psychologists, child advocates) simply did not exist in previous generations. Furthermore, those who worked in the field in earlier times were not informed by the psychotherapeutic approach to the same extent as current professionals. Current parents face a range of considerations, professionals and possible impediments not previously encountered. Similarly, children and young persons face a

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<sup>17</sup> Part of the increase in notifications can be attributed to greater public awareness of, and vigilance towards, abuse and neglect. Notifications, of course, are not equivalent to substantiated cases, but in either case these statistics reflect the parents', rather than the children's, behaviour, and, as such, are not useful for substantiating the assumption.

range of circumstances and problems unknown in previous eras. It is not intended to examine the world of children and young persons here. Rather, the changes are noted for their effect on parents, for if life is more difficult for children and young persons in the current era, it follows that the parenting of this group will also be more difficult. For these reasons, the assumption of reduced parental capacity and a concomitant increase in youth problems is deemed to be sound.

### *Choosing the topic*

Initial awareness of problems existing in the state/parent/child nexus was engendered by personal experience. My own experiences in attempting to guide a troubled child through the turmoil of a difficult adolescence had seemed to be exacerbated rather than assisted by the intervention of welfare services. Initially I attributed this to the particular social worker involved, though the experience did prompt me to evaluate my own actions and attitudes. While I could make some concessions and change some practices, I could not sacrifice my principles or act against my convictions. Although both the social worker and I shared a common goal, we could not develop a consensus on the means to achieving it.

High staff turnover rates within the Children and Young Persons Service during the 1990s resulted in contact with a number of different social workers and at this point my confidence as a parent was severely shaken. Unable to elicit the type of support I felt I needed, but becoming increasingly aware of problems experienced by other parents, I concluded that the problem lay in the culture of the organisation and an apparent lack of resources, rather than with individual staff members. It was, I thought, an area worthy of serious research - by someone else. Close proximity to an issue abounding with emotional and personal intensity seemed contrary to the successful achievement of a (nominally) unbiased, objective piece of research and my experiences were therefore instrumental in the initial decision not to research this topic area. The passage of time, increasing awareness of others' problems in this area, and an acknowledgment of the advantages of a passionate interest in the topic in terms of assuring completion of the research project, eventually combined to reverse the original decision.

While my own problems eventually abated, I remained in contact with some parents who were continuing to struggle. The experiences of one of these families in particular prompted me to revisit my assumption that I was too close to the topic to research it effectively. I was no longer enmeshed in the system, no longer subject to the emotional

rollercoaster associated with such problems, and deeply cognisant of the distress some families were experiencing as the result of a system purported to exist to support and strengthen them. These families were largely invisible in the wider context, yet their problems were so acute that their traces were at times visible in media headlines. Teenaged runaways, truants, drug and alcohol abusers, even an attempted murderer among their offspring, the families were spoken to and spoken about, but seldom, if ever, spoken with - or heard. The distress of families caught in this nexus was undeniable. Enveloped in their own particular misery, they had neither the time nor the energy to embark upon any struggle other than the immediate one. Addressing failures and gaps in the system was, of necessity, someone else's struggle. It became mine.

In this, I unashamedly admit advocacy. I was, and remain, convinced that these voices need to be heard. This conviction relates not simply to alleviating the plight of these parents as people, but, more importantly, as parents. It is by virtue of their status as parents that they are in distress and their distress concerns, surrounds and affects their offspring. By association then, this research is also motivated by the imperative of better serving the best interests of children and young persons. The opportunity to research the causes and implications of the misery of these families was present in my intention to undertake doctoral studies. My passion for the subject matter, troublesome in its potential to compromise objectivity, could be equally instrumental in ensuring a thorough treatment of the topic and would at any rate be tempered by sound supervision.

### *The interpretive dimension*

Having decided to proceed, I then faced decisions regarding how the research should be undertaken. As discussed earlier, the nature of the topic determined this to some extent. A review of existing literature exposed a deficiency in literature relating to the family, as noted in Chapter One. The expanding literature associated with the sociology of the family did not provide insights into the world of parents as parents, rather than as invisible members of a particular type of social unit. The extensive research and literature on children in the later decades of the twentieth century provided not only insights into the world of children, but also an increasingly strong advocacy for children. Much of this work on family and childhood informs the background of this thesis. Literature on parental rights was limited to those works discussing their rights in the event of marital dissolution, consent to medical treatment for their children (usually from a legal perspective), or general works in which parenthood was treated as synonymous



with family. A sociological approach to parents or parenthood was notable for its absence. The need for some sort of exploratory research was therefore indicated and personal interviews would both fulfil this function and allow the parents a voice in a manner not attached to possible alternative approaches for

In order to understand other persons' constructions of reality, we would do well to ask them ... and to ask them in such a way that they can tell us in their terms (rather than those imposed rigidly and *a priori* by ourselves and in a depth which addresses the rich context that is the substance of their meanings. (Jones, 1985, p.46)

Interviews with the subjects, during which an accurate account of the subjects' lives as they experienced it is gradually constructed, would result in something akin to a topical life history, albeit confined to a particular phase and dimension of their lives. Although the life history method affords the opportunity to permit the critical analysis of traditional assumptions (Armstrong, 1987, p.16), some researchers argue that analytical induction is generally to be avoided and the results are better viewed as theoretical sampling (Denzin, 1970, p.241). That is, there should be no attempt to generalise from the study as the cases cannot be deemed to be representative of the wider population. For the purposes of this project, however, the interview data are useful for illuminating problems that may affect (in substance, if not in form) the wider population, and transferability<sup>18</sup> is perhaps a better concept in assessing the external validity of qualitative research. Grounded theory assists in developing such possibilities through the generation of new propositions.

### ***Selection of participants***

As indicated earlier, I was personally acquainted with a number of families who fell within the topic area. One of these families (whose experiences prompted my change of topic) has contributed to this research. Selection of further participants was undertaken purposively.<sup>19</sup> I was not concerned to select according to race, gender, marital status or socio-economic status.<sup>20</sup> My aim was to interview parents whose children could be

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<sup>18</sup> This refers to the potential to transfer the conclusions to other settings and situations and this is dependent on a sufficient level of abstraction in terms of the concepts derived from the data. See Firestone, 1993, for an account of three types of generalisability (sample to population, analytic or theory-connected generalisation and case to case transfer) which shows how qualitative research can be accommodated.

<sup>19</sup> See Miles and Huberman, 1994, for an outline of sixteen qualitative sampling strategies.

<sup>20</sup> It would have been impractical to attempt to select the personal interview subjects randomly or on a national basis, since the relevant population in any given area will not be large and a national sample would have resulted in excessive expenditure and logistical problems, given the intention to conduct

described as *at risk* as a result of anti-social or self-endangering behaviour. That was the sole criterion for participation, though I acknowledge that perceptions of what constitutes *at risk* behaviour may vary. Rather than tightly prescribe this aspect, I gave examples of the types of behaviour that might be relevant and allowed the parents to decide whether or not they fitted this criterion.

Access to this population as a whole presents particular problems in that identification is difficult. There is therefore no attempt at assembling a representative sample, the small numbers involved in the project rendering representativeness problematic at any rate. It was my intention to interview parents from twelve families, though the decision was essentially arbitrary. The sampling methods used resulted in thirteen families who indicated a willingness to participate and I was loath to exclude any simply on the grounds of a previous arbitrary decision. Consequently, I conducted thirteen interviews. Two means of soliciting participants were employed - snowball sampling and requests to local organisations involved in supporting *at risk* families for permission to seek volunteers from amongst their membership or clientele. The snowball technique involved referrals from existing participants to possible participants. That is, subjects already involved in the research would refer me to friends or acquaintances who also fell within the area of study.

Letters of request for participants were sent to Toughlove Hamilton Inc, Parentline Inc, Hamilton and the Salvation Army's The Nest in Hamilton (all of which are community agencies engaged in supporting families in crisis), as a means of accessing the local population of parents in crisis, though care was needed to ensure as diverse a sample as possible. This quest for diversity should not be construed as an attempt at drawing a representative sample. Because parents involved in particular organisations are likely to present a particular response to, and perspective of given problems, to draw interview subjects exclusively from these organisations would be to cast the net too narrowly. It was therefore preferable to draw a sample from multiple sources, though there is no attempt in the analysis to establish differences in treatment/status along ethnic, gender or socio-economic lines. The research is concerned with the rights and responsibilities of parents, irrespective of these variables. For these reasons selection was also undertaken on a snowball sampling basis (making use of informal parent support networks), and is

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personal interviews. Furthermore it was premature to conduct research at such a level without first establishing a need for it.

composed primarily, though not exclusively, of parents residing in the Hamilton metropolitan area.

No response was received from The Nest, and Parentline responded to the effect that involvement in two other studies during the period left them of the opinion that it was not appropriate to ask clients to participate again. Toughlove contacted me by telephone, expressing interest in the research and a willingness to present my request at their next meeting. It was not felt that my presence was required at the meeting, though this option was always available. The following week I received, again by phone, the names and telephone numbers of a group of volunteers.

All participants were contacted by telephone in order to arrange a suitable time and place for the interview, and to arrange for delivery of a participant's information sheet. Because of the selection process utilised, all were expecting my call and broadly understood the purpose of the interview. They understood that I was interested in their experiences in trying to cope with their offspring and in the support they did, or did not, receive in their efforts. In both the information sheet and any pre-interview communications I was careful to avoid intimating any concerns I had about the operation of the child welfare sector, fearing that this might influence them in a particular direction.

The participants were assured that it was not my intention to attempt to explore the data in order to discern reasons for the behaviour of their offspring, or to evaluate the parenting abilities of the participants. These may well be avenues for further research, though the former is the focus for much current research,<sup>21</sup> and through this, focus on the latter tends towards parental incompetence rather than competence. I adopted the stance that there are no perfect parents (or children) and, this being the case, there was merit in examining problems encountered by some parents from a perspective exclusive of parental performance. I cannot, and do not, deny that parental performance is implicated in some cases of *at risk* behaviour, especially in cases of abuse and neglect, but point out that parents who are neither abusive or neglectful, and who might reasonably be regarded as competent parents, can also experience problems with *at risk* behaviour. Accordingly, my only question to the parents that related directly to their parenting abilities was in regard to abuse and neglect. I am as satisfied as I can be that this was not a feature in the lives of any of the families involved. A further point to note is that,

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<sup>21</sup> Most of this tends to be within the discipline of psychology - or at least strongly informed by it.

irrespective of the reasons for the parents reaching the point of distress evident in their stories, they encountered an environment which they found to be unsupportive of them in their parenting, and this is the problem that this research seeks to explore.

All participants were given an information sheet and asked if they understood what was required of them and the purpose of the study, before signing the consent forms.<sup>22</sup> None objected to the use of an audiocassette to record the interviews and all were satisfied with assurances regarding the maintenance of confidentiality, anonymity and privacy. Preserving anonymity for one of the participants proved unexpectedly challenging. Eleanor is possessed of a disability which, if identified, would risk her anonymity, since the associated population is relatively small. The disability, however, directly affects her parenting at times and it has been necessary to develop some sort of parallel impediment by which to impart the sorts of difficulties she faced. To this end, I have constructed her identity to some extent. Because her disability results in her sometimes being unaware of vital pieces of information, I have cast her as unable to speak or understand English. While not achieving an exact parallel with her circumstances, this none the less allows a sense of the sort of impediment that can adversely affect her parenting. The essential element of this construction lies in the inaccessibility of some types of information. This has affected her in terms of awareness of problems and avenues for assistance and because of this her actions and responses can be delayed or based on only partial information.

### *General demographics*

Of the thirteen families interviewed, eleven were two parent families, though five of these included only one biological parent, the second partner being a step-parent, and one of these was a same sex partner. Only four interviews included both parents (or a step-parent), though in two of these cases, the father's participation was considerably less than that of their wives. One was a step-parent who had not been a part of the family at the onset of problems, and the other, while affable and interested, felt his wife was well able to present their experiences and attended to household maintenance through much of the interview. Where fathers were not present at all, this was generally due to work commitments. Of the remainder, all but one of the interviews was with the mother.

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<sup>22</sup> I gave considerable thought to whether or not their children's consent should also be sought, since their behaviour was likely to feature in the interviews. They will, of course, be accorded the same ethical treatment as their parents, but I decided that it was both unnecessary and impractical to seek their consent. By extension, to have sought their consent would have resulted in an obligation to seek consent from anyone mentioned in the course of an interview.

The exception was a non-custodial father who lived close to his former wife and remained closely involved with their children. Six of the families were affiliated with Toughlove.

As might be expected, the single parents' incomes tended to be lower, though there were more families whose income was above \$30,000 (8) than below (5). Three of the families had incomes in excess of \$50,000 per year. Two thirds of the parents were in the 35-45 age group (again this is to be expected, given the age of their offspring), while one participant was over 55 and two were younger than 35. Just one of the participants identified as Maori, though a number of the children had one Maori parent. One family held British citizenship, but were permanently resident in New Zealand.

Two families were comprised of just one child, though most (10) had two or three children. Remarriage resulted in one family having responsibility for up to six children at times, though this was not permanent. At the time of the interview, two of the families reported the child causing concern was now living independently, and two further families had offspring in residential rehabilitation programmes. Ten of the families reported a family history of substance abuse (usually alcohol) or psychiatric disorder. Two of the parents acknowledged their own problems with alcohol, though both had undergone treatment and rehabilitation. More than half the families had at least one parent who had attained, or was currently enrolled in, a tertiary qualification.

These general demographics are presented purely for descriptive purposes and there is no attempt in this project to analyse according to income, family size or form, age of parents or ethnicity. Future research may attempt such an analysis; I simply note here that there is a broad range of income levels, ages and family structures represented here and falling within a particular demographic appears to offer no guarantee of immunity to the possibility of problems with *at risk* behaviour.

### ***The interviews***

At the participants' request, six of the interviews took place in my office, one took place in my home, and six were conducted in the participants' homes. In weighing decisions about ideal interviewing conditions my primary concern was that the participants feel as much at ease as possible, and subsequently, I left the choice entirely to them. Of those undertaken in the participants' homes, all but one was conducted while children were in the house, and three spoke freely in the (intermittent) presence of their children. Disruptions and distractions were of little consequence, despite children, telephones and,

during the course of one interview, the birth of a litter of kittens. These were all treated as part of the fabric of family life and the focus on relating the family's experiences remained uppermost.

While the interviews conducted in my office involved a much less natural setting, the choice was usually made for convenience, though two parents preferred it simply because the children would not be present. These interviews were not exempt from interruptions however, with checks from campus security during interviews outside normal university hours. Again, the interruptions were largely disregarded and did not disrupt the flow of the interview to any significant degree. I suspect the interview conducted in my own home was requested in part as a means of gaining some measure of the character and quality of the researcher (the participant was a health professional with some familiarity with research using this approach), but I was comfortable with her choice and regarded her subsequent forthright contributions during the interview as implicit approval. Although the subject matter of the interviews was intense at times, and some participants became quite emotional, all presented as relatively relaxed and willing to share information that normally would remain within the family.

I attribute this in part to the reassurance that it was not their parenting that was the subject of scrutiny, and this was reinforced by the knowledge that I had experienced similar problems myself. Aware that best results flow from interviews in which there is mutual trust between the subject and researcher, I found this developed more quickly when the participants were aware that I identified as among their number. Prior to the interview I was happy to give them some examples of the behaviours in which my child had indulged but, cognisant of possible interviewer effects, again refrained from comment on my experiences with helping agencies, suggesting instead that we could discuss my perspective following the interview if they wished. Most did, and I came to allow as much as a further hour for discussion after the interview. Some of this related to correcting misinformation expressed in the interview (such as fear of prosecution for smacking a child) or to discussing possible avenues for help for ongoing problems. In the latter case, the parents themselves often provided useful information that could be passed on to other parents. A good deal of this time, however, was spent exchanging views on the operation of the child welfare sector and it is fair to say that there was unanimity amongst the views.

My own experiences also served the process well during the interviews in that I could readily identify with the poignant, hurtful or embarrassing experiences that were

recounted. This allowed, I believe, for greater disclosure with the interview resembling a “conversation about mutually relevant, often biographically critical, issues” (Denzin and Lincoln, 1994, p.354). The disadvantage of my close association with the research topic was the danger of assuming shared understandings and through this imposing my understanding on their stories. To overcome, or at least minimise, this, I at times had to insist the participants describe the situation or incident (about which we were both knowingly nodding) in their own words. The problem of assuming shared understandings would seem not to be exclusive to researchers with a close association with the topic however, for the potential for it is inherent in developing the empathy and trust necessary to establish a good rapport with the subjects. I was also cognisant of possible reactive effects, though most participants appreciated the opportunity to tell their stories in an environment in which their parenting skills were not under scrutiny, and some intimated that they found the process somewhat cathartic. With regard to possible harm to the participants as a result of the interviews, my over-riding impression was one of urgency. That is, there was an almost palpable frustration - on their part and mine - that the interview itself could not immediately address some of the problems they faced, and that their voices were to be confined within the researcher’s environs for the duration of the research project.

The interviews themselves fell within a broad description of semi-structured interviews.<sup>23</sup> While I had prepared a range of questions for the participants, these were devised to ensure various experiences were covered - contact with police, Family Group Conferences, truancy, for example - and the loose structure allowed for greater flexibility (Sarantakos, 1993). The greater part of the interviews was normally comprised of parents recalling and relating particular incidents and the experiences that followed from them. I did not require great detail on the incidents themselves (in as much as it was describing their offspring’s behaviour), but was more concerned with the ensuing actions by the parents and other adults. At times their recollections were unclear and they would solicit help from siblings of the child or young person causing concern, or other adults (one ringing her mother to check details). I decided that allowing this course was preferable to collecting incomplete or inaccurate data. The lack of clarity was generally understandable given the prolonged and complicated problems some parents recounted. Other parents (particularly those who had experienced problems of short duration) had

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<sup>23</sup> See Fontana and Frey, 1994, for classification of different types of interviews.

very good recall and the duration of interviews ranged from thirty minutes to almost two hours.

### *The data*

In some respects the data collection in this project was relatively simple in that the interviews were recorded on audiotapes, though a particular disadvantage of the interview method is the high cost in terms of time. The method requires not only actual interview time, but also time for transcription of the tapes and analysis of a wealth of data. Transcription poses problems beyond the tedium of the task itself. I was often concerned by the inability of the printed word to convey meaning as soundly as might be desired. Instances of humour, irony, deep emotion or sarcasm could be lost in the transition from the spoken to the written word. Still more could be lost during analysis. Because the data is qualitative, it tends to be more difficult to organise, categorise or code and the imperative of discerning themes and patterns inevitably requires that individual contributions are sometimes subsumed, with quotes “ripped from their context and source of meaning” (Shratz and Walker, 1995, p.136). This aspect is all the more problematic in that the parents’ voices and stories were the motivation behind the thesis and it was important that some tangible connection between the data and the subjects be maintained. To this end, I included as much context and as much of the parents’ stories (albeit in abbreviated form) as possible during the writing process. While the academic requirements of the thesis process needed consideration, there remains a sense of loss around those aspects which could not be included.

The reliability of the data was less problematic for me. I accepted that the parents’ stories were their constructions of the experiences they related and, while ever conscious of this, did not see this as a threat to validity. It was, after all, the point. Aware of the possibility of problems relating to memory, response tendencies, social desirability, honesty and self-deception, all of which are largely beyond the researcher’s control, I concluded, nevertheless, that the forthright, intimate, hurtful, embarrassing - sometimes even shameful - information that was shared in the interviews was an indication of the honesty of the participants. This conclusion was reinforced by the demeanour of the parents. Their attitudes reflected a search for answers rather than excuses and my analysis proceeded with a good degree of confidence in regard to the reliability of the data.



I had noticed some recurring elements during the interviews and transcription, and an initial reading of the transcripts confirmed these impressions. Frustration was dominant in all the interviews, though its source seemed to vary, both within and between transcripts. At this point my inclination was still towards relating their stories to the operation of the child welfare sector and the emphasis on children's rights, and, accordingly, I conducted an analysis of current legislation (Children, Young Persons and Their Families Act 1989) with a view to determining its impact on parents. Further analysis of the data, however, suggested this approach was inadequate.

Descriptions of the research process inevitably depict discrete stages in order to present a readable, sensible account. In qualitative research, this is seldom an accurate depiction, with data collection, analysis and theory building occurring throughout the process. This project is no exception, and it was during a second analysis of the interview data, in which the patterns discerned earlier were raised to a higher level of abstraction, that my initial intentions were adjusted. The parents' stories, I had thought, would highlight the tensions between children's rights and parents' rights, along with those aspects of the existing institutions and practices that were not operating in a manner supportive of some parents and their attempts to cope with *at risk* behaviour by their children. This was indeed the case, though the later analysis of the interview data suggested that this was merely a part of a larger tendency, rather than one peculiar to the child welfare sector.

The initial analysis had provided evidence of frustration stemming from a number of sources. Abstraction and comparison of indicators of the sources of frustration, which tend to be specific and concrete (disagreement with a social worker or failure to access help, for example), led to the development of second order concepts, which tend to be more general and abstract. Some of these indicators related to the respective rights of children, parents and the state, and its corollary, the relative power of each. Linked to this were themes connected to knowledge, information and access to both - about avenues for help, the law, policy and practices and the range of their offspring's behaviour. From these initial patterns and the links between them I developed three concepts based on notions of ignorance, isolation and impotence, which were abstracted from the data at a higher level. These concepts eventually provided the basis for the formulation of a theory, again at a higher level of abstraction, by which the data might be explained.

Essentially there were three types of codes involved:

... *Substantive codes*, which are the initial conceptual categories in the data; *theoretical codes*, which connect these categories; and the *core code*, which is the higher order conceptualisation of the theoretical coding, around which the theory is built.

(Punch, 1998, p.210)<sup>24</sup>

Substantive codes are established through open coding - fracturing the data in order to identify conceptual categories that are either implicit or explicit in the data. The concepts generated may have a number of different empirical indicators. For example, the parents' stories provided ample evidence of situations in which they were unable to effect change in their offspring's behaviour. Their ineffectiveness could be evident in a number of different situations - truancy, drug abuse, absconding, for example. Similarly, it could be due to any of a range of factors and often to a combination of factors. At this point, having established substantive codes, theoretical codes are developed using axial coding - interconnecting the concepts generated by open coding. Developing the links between the concepts can be viewed as reconstituting the fractured data - in conceptually different ways. The process identifies causal conditions, consequences, context, intervening conditions and phenomena as a means of interrelating conceptual categories. Attempts to prevent truancy, for instance, could be thwarted by the school's failure to inform the parents of absences or by the lack of significant sanctions for the student, or both.

As concrete examples were abstracted from the data, it was possible to relate them to more abstract concepts - truancy could be related to a lack of awareness of problems by the parents which in turn could be related to poor communication by the school, suggesting both ignorance and isolation. While both these factors could render the parents ineffective, the risk of suspension or expulsion posed no threat to some students, effectively continuing the developing pattern of apparent impotence. Eventually clear links appeared between the concepts of ignorance, isolation and impotence, with each capable of, and tending towards, influencing the others. In the most straightforward scenario, a lack of knowledge regarding the possible sources of help can leave parents isolated in their struggle and therefore less potent in effecting change. Developing this further, parents might seek to end their isolation by seeking knowledge, only to be further disempowered by discovering that their child cannot be compelled to go to school, or that the help they access does not concur with their views on what needs to

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<sup>24</sup> See Punch, 1998, p.219 for a diagrammatic explanation of key concepts in grounded theory.

be done. This in turn can engender further isolation as opinions become polarised. Thus not only are the parents frustrated by their offspring's truancy, their efforts to resolve the problem can also be frustrated. The third type of code is achieved through selective coding - the deliberate selection of one aspect as a core category around which the analysis proceeds. Thus the three categories mentioned above, along with the notion of frustration that permeates all three are drawn together around a central focus, descriptive of what the axial coding has produced. When analysed, the selective coding provides "a conceptual category abstract enough to encompass what has been described" (Punch, 1998, p.218). The core code - the disempowerment of parents through the erosion of parental *mand*<sup>25</sup> - is then systematically related to other categories in the data. This process of drawing theory from the data, rather than imposing theory on it, goes some way towards answering the common challenge to interpretive research that the data are manipulated to meet the researcher's criteria.

The three concepts outlined above are not intended as direct characterisations of the parents. Not only does the level of abstraction preclude this, such a characterisation is distasteful - and inaccurate. Rather, the concepts provide more general parameters within which their experiences start to make sense, and the concepts can relate to a range of circumstances, people, organisations and processes. Definitions of the terms, and how the concepts are to be understood, are given in Chapter Six. Each of the three themes - and their interconnectedness - assisted in developing the core category, the grounded theory. While this theory offered a viable explanation for the parents' experiences and their concomitant distress, I felt an obligation to verify the theory at a level beyond that available within the current approach, and to achieve this I would have to look elsewhere.

### ***The critical dimension***

I had long had a sense that the growth in children's rights was implicated, though, in itself, the growth presented an inadequate explanation, since children's rights were not an integral feature of some of the problems experienced by the parents. Similarly, since the interview data and the theory grounded in it suggested that the operation of the child welfare sector and the emphasis on children's rights were merely elements of something larger, I had to find a means of isolating and examining this larger tendency. The

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<sup>25</sup> This is treated more extensively later in the thesis, but essentially contends that the historical concern to promote the status and interests of children and the more recent accent on children's rights

expansive literature on children's rights and welfare provided an insight into how much perceptions of, and attitudes to children had changed. These changes in relation to New Zealand children were comprehensively documented in Dugald McDonald's 1988 doctoral thesis, *The Governing of Children: Social Policy for Children and Young Persons in New Zealand 1840-1982*. Much else had changed over this period and beyond. Certainly parenting had, as had child welfare, political ideology, legislation, economic policy, social norms and expectations and cultural values. Mass media had evolved to reach the general population, influencing perceptions of multiple aspects of modern life. Within this milieu lay the larger tendency implicated in the interviews and by which I might make sense of the data.

General works on New Zealand's political, economic and social history provided a broad understanding of many of the changes, while reports from various government departments and ministries (Social Welfare, Justice, Corrections, Health, Commissioner for Children, Youth Affairs, Children and Young Persons Service) and voluntary or community organisations (Youth Law Project, National Council of Women of New Zealand, Auckland Committee on Racism and Discrimination, New Zealand Law Society) allowed a more narrow focus on the family arena. Conference and seminar proceedings from various academic disciplines, national societies and special committees (for example, the Committee for the International Year of the Family [1994]) added further depth to the analysis.

McDonald's thesis provided a good starting point for a critical analysis of the historical context within which changes in the parent-child relationship were embedded. His characterisation of children through different periods in New Zealand's history served as a basis for developing a corresponding characterisation of parents and this was augmented with data from literature relating to various aspects of historical change in New Zealand's political, ideological, economic and social landscape. Each of these was examined from a perspective focussed on the implications of change for parents. Attention was also paid to current media representations of parents by gathering examples of this from various print media at intermittent periods throughout the research process. A watching brief was kept on the broadcast media, though relevant stories were generally to be found in the print media in greater detail.

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has been accompanied by a marginalisation of parents that significantly inhibits the fulfillment of their responsibilities for their children.

In the last twelve months of the research (1999) I also availed myself of the opportunity to receive ministerial announcements and press releases via e-mail. This service is specific to the person rather than the office held and changes in portfolios needed to be tracked. The Ministers from whom I received announcements and press releases were Prime Minister, Jenny Shipley, Minister of Justice and Youth Affairs, Tony Ryall, Minister of Social Services, Roger Sowry, Minister of Education, Nick Smith, Minister of Police and Corrections, Clem Simich and Associate Minister of Social Services, Peter McCardle. A search of speeches and press releases on the government's online website was also undertaken. Again the data emanating from these sources was scrutinised for its attitudes to, and representations of, parents and parenting. The research here, and in regard to the media, was by no means comprehensive, though it did assist in developing a sense of the social climate in which parents currently find themselves. Both areas promise fertile ground for further research.

The findings of this part of the research were then synthesised with the findings drawn from the interview data. The critical analysis of the current and historical context provided an ecological perspective within which the parents' experiences could be understood. Because the critical analysis was informed by the interpretive data, in some respects the synthesis was in the nature of a formality. Connections to the concepts derived from the interview data were readily apparent and the marriage of the two substantiated a social, as opposed to psychological or interpersonal, dimension to problems encountered in the parenting of *at risk* adolescents. The critical analysis provided greater credibility to the theory grounded in the interview data, while at the same time the parents' experiences gave practical expression to the ramifications of the historical changes examined in the critical analysis. They were, in essence, individual manifestations of the consequences of social change affecting the child/parent/state nexus.

### ***Conclusion***

The participants in this research have contributed significantly to the shape of the research process engaged in this project. Not only are they responsible for the project being undertaken in the first place, but along with the nature of the field of inquiry, they are also responsible for the decision to engage a qualitative, rather than quantitative, epistemology. The importance of their stories, premised on the anguish and frustration evident in their accounts, was the driving force behind the decision to extend the research beyond mere description, or an analysis which treated the context as static. The

bias inherent in adopting a parental perspective is acknowledged, but it is argued that this is a necessary component of an holistic understanding of child welfare.

Engaging in mixed method research was deemed to be the most appropriate way to approach the topic since it allowed both the generation and testing of theory. The ethnographic component of the research, accomplished via semi-structured interviews, provided data from which a theory could be developed. While this grounded theory could be verified by the interview data, its credibility and transferability were enhanced by the application of critical theory to the current and historical social context in which the parents' stories are embedded. By examining changes in the wider historical context, with a view to their implications for the child/parent/state nexus, the critical analysis assisted in explaining the frustration experienced by the parents in the current context. Applying a similar process to the current context, the legislation and its operationalisation further enhances understanding and lends weight to the theory generated by the interview data.

## CHAPTER THREE

### **From Invisibility to Advocacy - the Historical Ascendancy of Children's Rights and its Repercussions for Parents**

The official status and treatment of children at the dawn of the twenty-first century has significantly changed from that which pertained in the mid-nineteenth century. Integral to the changed status and treatment of children are changes in legislation affecting children. This chapter presents an outline of the development of child focussed legislation in New Zealand since the mid-nineteenth century, together with an analysis of the effects that various pieces of legislation have on the position of parents in regard to both their children and the state. The structure of this outline is significantly influenced by the work of Dugald McDonald. In his 1988 thesis, McDonald outlines a series of periods in New Zealand's history to which he attaches a particular characterisation in terms of the status and treatment of children during each period. His analysis is augmented here with a corresponding characterisation of parents for each period, a process which in turn indicates how the state might be characterised. McDonald's periodisation is premised on prevailing social values in each period, indicating the importance of the social context in any historical analysis. This context influences the ways in which the various pieces of legislation are enacted and offers a partial explanation for the disparity between intentions and consequences in regard to changes in policy and practice.

The social context is also relevant in contemporary analyses, though McDonald's thesis concludes in 1982. The territory investigated by McDonald is less complicated than the contemporary landscape, in that issues such as children's rights and child abuse were less prominent than in the current context. While it is this latter period that is of primary relevance to this thesis, revisiting McDonald's periodisation of the status and treatment of children, and supplementing it with a determination of how parents might be categorised through these same periods, can take us a considerable way toward understanding the current position and public personae of parents. His thesis covers the period 1840-1982, and he divides this, based on "influential social values towards children", into five main periods (McDonald, 1988, p.vi). Social values influence multiple areas of social life and changes in one arena are apt to have repercussions in other arenas, a process central to the thrust of this research. It should be noted that while McDonald refers to children, and his terminology is sustained throughout this analysis, the term

should be regarded as inclusive of young persons, though it is not until late in his analysis that the distinction is made in law.

### *Children as chattels, parents as owners*

The first period outlined by McDonald covers the years 1840-1879, the first forty years following colonisation.<sup>1</sup> During this period children are characterised as chattels of their parents, and as possessing only negligible social rights. While it may be more accurate, given matrimonial legislation at the time, to characterise children and their mothers as chattels of the father, the thrust of McDonald's characterisation is accepted. At the beginning of this period fathers, or their widows, had an inalienable right to the custody and guardianship of their children. The state's concern extended only to those children who were indigent, orphaned or delinquent, and even this concern was minimal, with Ordinances reflecting the filial responsibilities of England's Poor Laws. Where the Ordinances did not produce the desired effects, the state's response essentially amounted to little more than encouraging the work of hospitals (all of which were charitable organisations) and religious establishments in the various provinces.

Despite coming to New Zealand in hopes of establishing a more egalitarian society, the colonists were none the less still very much imbued with a Poor Laws mentality (McDonald, 1988, p.23). Children, however, were the undeniably innocent victims of poverty and fitted more easily into the public's notion of the deserving poor. Moves to provide charitable aid to children were more readily accepted than aid provision to other less deserving groups (particularly unwed mothers), and the Destitute Persons Relief Ordinance (1846) allowed children the right to limited charity, an ethos extended during the 1860s with the establishment of orphanages in Christchurch (1862), Auckland (1862), and Dunedin (1869). In 1867 the Neglected and Criminal Children Act made provision for the Provinces to establish industrial schools and reformatories, which, though not state run, were subject to state inspection. Though there was only minor change to the parents' right to exclusive possession of the child during this period, this Act empowered the court to override parental rights in cases involving neglected or criminal children, signalling a willingness to intervene in the absolute rights of parents.

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<sup>1</sup> It is accepted that children existed in New Zealand prior to colonisation. The use of legislative developments and official governance as indicators of change precludes investigation of the status and treatment of children in earlier times. While Maori children are included in this research in general terms as part of the post-colonial and current conditions, specific research on the historical and current position of Maori children is an area requiring more comprehensive research.



An amendment in 1870 allowed boarding-out provisions for children in industrial schools, with further amendments in 1873 and 1876 allowing the state (through the masters of the industrial schools) to seek guardianship of inmates under the age of fifteen years, and later extending this to all minors under the age of 21. The state's assertion of the right to act as guardian of neglected children was therefore established at an early stage. Despite this, the characterisation of children as chattels suggests that parents might well be characterised as owners, who in McDonald's words were endowed with the "right to buy, sell or trade" children (1988, p.107) - a description not entirely unjustified in its ability to conjure connotations of slavery.

Slavery had been outlawed in the entire British Empire since August 1834, but a number of practices during this period suggest the depiction of parents as owners is not without foundation. While children commonly toiled with and for their parents as they attempted to establish a new life in a new land, McDonald also aligns notions of the buying, selling and trading of children with the practice of placing children in domestic service or apprenticeships, which in many instances amounted to little more than slavery. Since such placements were the regular practice of the state, through the auspices of the court (McDonald, 1988, p.85), and in light of the confinement of neglected or criminal children in the iniquitous industrial schools from 1867<sup>2</sup>, it is clear that the treatment of children as chattels was not a practice confined to parents. The intent of the legislation, however, casts the state in a more beneficial light, since intervention was premised on assisting criminal, neglected or destitute children. The intentions of parents who placed their children in service are more readily interpreted in financial terms. That is, the practice is seen to serve as a means of relieving the fiscal burden of families and had little to do with increasing the welfare of the child. Thus, despite only minimal intervention by the state during the period, parents can be construed as inadequate in those cases involving delinquent or destitute children and as having less than desirable motivation for placing their children in service, while at the same time the state begins to be seen as a means of salvation. With the inclusion of neglected children among those in which the state took an interest, intervention began to be extended beyond merely those children classifiable as delinquent or indigent.

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<sup>2</sup> Though the legislation presents a facade of concern for the welfare of neglected, orphaned and criminal children, the reality of the industrial schools was primitive, punitive and oppressive - and plagued by scandals (McDonald, 1988, p.23).

A reluctance on the part of some charitable organisations to accept illegitimate children led to a second practice, baby farming, which is also indicative of the view of parents as owners and children as tradable commodities. Baby farming was a practice wherein the children of unmarried mothers or destitute parents would be cared for by a third party, sometimes in private homes, sometimes in charitable institutions, in exchange for a fee from the biological parent(s). While baby farming arrangements could be perfectly legitimate and allow a better standard of living for the child than would otherwise have been possible, the practice, imbued with negative connotations centring on the stigma of illegitimacy, was regarded in the public mind as sinister, and the caregivers were depicted as callous women whose interest was in the payment rather than the child (Dalley, 1998, p.52). Despite gradual acceptance of notions of the deserving poor applying more readily to children as the Poor Laws mentality was modified, the tendency for charitable institutions to continue to refuse care to illegitimate children served to continue the need for baby farming. The moralism of the period perpetuated the stigma of illegitimacy, thereby perpetuating the need for babyfarming, while at the same time stigmatising the practice. The growing public unease surrounding baby farming, however, (particularly the view that the money took precedence over the wellbeing of the child)<sup>3</sup> is indicative of a gradual shift away from the view of children as chattels. While shifts such as this may seem to contradict McDonald's periodisation, they merely demonstrate the protracted nature of changes in social values and overlaps are inevitable in any attempts at periodisation. Of necessity, the choice of boundaries for each period tends to be arbitrary and traces of the past, along with signals of the future will be evident in any period.

Neither placement in industrial schools nor the practice of babyfarming was necessarily the norm for the period in terms of parental behaviour, though they are useful in demonstrating the repercussions of prevailing social values and material conditions. The characterisation of children as chattels, and of parents as owners reflects a climate in which the practices described become possible, though not necessarily prevalent or pervasive. Children generally were not accorded the attention or protection of the state and parents did not avail themselves of babyfarmers as a matter of course. None the less, it was legitimate for children to be treated as chattels, as "tools of their parents in the business of survival" (McDonald, 1978, p.45), and the state was generally uninterested

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<sup>3</sup> Suspicions regarding the motives of those who took in illegitimate children were reinforced by the trial of Southland woman, Minnie Dean, who was hanged following conviction for the murder of children in her care.

in the conditions of childhood, its major concern being to apportion responsibility for neglected or criminal children with a view to achieving some measure of social control through the industrial schools. In this sense, McDonald's first period stands alone in his analysis in that it is the only period wherein - at least initially - the state and parents can be characterised as possessing a similar (dis)regard for children. The characterisation of children as chattels, however, reflects more than simply the legal and social position of children at the time, since it is imbued with a twentieth century understanding of the term, which carries significantly negative connotations in its application to human beings. Implicit in describing children as chattels, are notions of the child as object, as victim, as being treated as inferior and as requiring the restoration of human dignity. Conversely, the description of parents as owners carries connotations of parents as subjects, as possessed of an assumed superiority, as merchants in human assets, and therefore as repositories of moral inadequacy. The state, on the other hand, though characterised initially as largely disinterested, is, by virtue of the measures that were instigated, foreshadowed as being the means by which the future welfare of children can be assured. Continuing and increasing intervention by the state is therefore cast as inevitable.

### ***Children as protected persons, parents as potential threats***

The second period McDonald delineates covers the years 1880-1913, and during this period children are described as protected persons, "guarded by the state, but with limited individual rights" (McDonald, 1988, p.vi). The shift from provincial government to central government in 1876 required a raft of new national legislation and assisted in bringing the state directly into the arena of child welfare, with the Department of Justice assuming responsibility for the administration of industrial schools the same year. The administration of the industrial schools was passed to the Education Department in 1880, bringing the state more explicitly into the realm of the family, given that the Education Department, unlike the Department of Justice, eventually had a legally prescribed interest in all children and their families. Legislation in 1882 brought in a change in the role of the judiciary in that its powers were reduced and the power of the Education Department was increased (O'Reilly, 1984, p.8), laying the foundation for the exercise of wide discretionary powers by the Department. State involvement *via* the industrial schools did not guarantee an improvement in the lot of the child, and it should be noted that the causes of neglect of children (usually extreme family poverty) or of crime by children were not addressed. Guardianship of children in the industrial schools could be sought by the managers irrespective of parents' wishes - only their ability to care

for the child was considered, and there were no avenues for addressing barriers to the parents' ability to provide adequate care, particularly poverty.

In 1877 the Education Act extended the state's intervention into the upbringing of children beyond the physical wellbeing of that percentage who required care, protection or justice, and entered the daily lives of all children. The Act removed from parents the power to decide how and where their children's days would be spent - whether their education would include lessons in literacy and numeracy skills, whether those lessons would be learned at home or at school, and at what age such lessons might begin or cease – and effectively removed children from the influence and supervision of their parents for a large part of their day.

While compulsory schooling is not usually regarded as an example of the oppression of children, it does, in effect, result in their being treated in ways that would be considered a violation of rights (by limiting their freedom to choose) if applied to adults. While in this sense compulsory education impinges on children's rights and considerably changes the previous relationship between children and the state, it is also an example of the violation of the parents' right to rear their child in the manner of their choosing, and also changes the relationship between parents and the state. These particular violations are generally regarded as justified and acceptable, however, as a result of the particular knowledge, values and attitudes of our particular society.

The Act also represented the beginnings of what can reasonably be viewed as a real and official interest in the lives of children at something beyond the merely physical level, and as an official awareness of the possibility of deficiencies in parents' intentions, actions and resources. This view was reinforced by the introduction of the Adoption of Children Act in 1881 and in 1890, the state "took to itself the power to invigilate the quality of family life" with the enactment of An Act for the Prevention of Cruelty to and Better Protection of Children, otherwise known as The Children's Protection Act (McDonald, 1988, p.129). The Act allowed the arrest and confinement of anyone alleged to have mistreated, neglected or exploited any boy under fourteen years of age or any girl under sixteen. The court was also empowered to remand children in custody in cases where there were accusations against their caregivers. The purpose here was to ensure the safety of the child until the accusations could be substantiated or disproved, a judicious action, but one which could nevertheless place innocent parents in an invidious position and, in practice, subordinated parents' rights to those of children and the state.

While the economic depression of the 1880s accentuated social differences, the “enforced association and mutual co-operation” required for survival produced the basis for “an openly stratified society, yet noted for the absence of subservience”, and by the 1890s “a new type of politician eager to realise the opportunities for social democracy promised by the egalitarian mood” had emerged (McDonald, 1988, p.109). The depression also produced a new moral zeal, with the twin cults of domesticity and true womanhood<sup>4</sup> credited with giving the period its moral character (McDonald, 1988, p.110). Though concerned with mothers rather than parents, the ethos of these twin cults generated notions of the requisites for proper parenting and allowed the prescription of such requisites by educationalists, prohibitionists, those working to prevent cruelty to women and children and the “evangelists of modern science” (Olssen and Levesque, in McDonald, 1988, p.110).

Concerns for the welfare of farmed infants were addressed in 1893 with the passage of the Infant Life Protection Act and the range of relatives legally responsible for destitute children was extended in the Destitute Persons Act 1910 to include any brother of full age, along with parents, grandparents, step-parents and adoptive parents. Further protection was afforded children under the Factories Act 1891.<sup>5</sup> Payment in respect of adopted children was prohibited under an amendment to the Infant Life Protection Act in 1906, and a further amendment in 1907 (requiring police supervision of infants who were adopted or fostered [for payment] in order to ensure the child’s survival) offered further protection. The Act also enabled the Court to dispense with the consent of the natural parent in adoption proceedings if the Court was satisfied that the parent was unfit to have custody of the child (O’Reilly, 1984, p.17).

The principle conferred by English common law that fathers had prime rights of custody of children had never been absolute in New Zealand, and the courts had power to allocate custody to others, although the father retained guardianship. Controls over foster care were introduced as a means of protecting illegitimate children, though state

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<sup>4</sup> True womanhood was achieved by mothers, their proper role and high moral purpose confined to the domestic sphere. Defined and promoted initially by the urban upper-middle class, these twin cults soon gained general acceptance as a means to “order and rationalise social relations between the sexes” (Olssen and Levesque, 1978, p.7)

<sup>5</sup> The legislation was initiated for the purpose of protecting children from exploitation in the workplace. Given that both parents were likely to continue working in the factories, it can be argued that if the policy was indeed motivated by a concern for the well-being of children, some further legislation covering the fate of these children during working hours would also have been enacted. The problem was eventually addressed by the eventual public acceptance and official enforcement of those provisions of the 1877 Education Act that required compulsory attendance at school.

pensions and some churches continued to discriminate against such children. Never the less, during this period laws covering adoption, child protection, labour conditions, child health and fostering were introduced, offering “a wider array of dispositions of children (and) imposing regulatory mechanisms on the agencies involved, creating the beginning of a welfare surveillance system covering all children” (McDonald, 1988, p.114).

Existing statutes covering the treatment and status of children were consolidated in the Infants Act of 1908,<sup>6</sup> which consisted of five parts covering guardianship and custody, contracts and wills, adoption, protection and infants’ homes for foster care. The raft of legislation during this second period can be seen as a tacit acknowledgment of some sort of collective responsibility for children in that it is evidence of official recognition of the need to provide special protections for children, while at the same time enabling intervention by the state in family life. Furthermore, although legislation affecting children in a variety of areas - health, contract law, criminal responsibility, juvenile justice systems, health - was introduced during this period, much of the legislation sought to protect children from their caregivers.

In light of these developments, if children are to be regarded as protected persons, then clearly the state is to be regarded as the protector of children, and some parents are among the range of threats to children that the state seeks to eliminate or minimise. The threat posed by parents and other adults was addressed through such organisations as the Plunket Society and the Society for the Protection of Women and Children (SPWC) on the one hand and the courts on the other. The new moral zeal, which permeated the nation following the depression, is evidenced in a particular concern for the control of larrikins. In 1892 the SPWC petitioned Parliament to have curfews imposed on young people (McDonald, 1988, p.110), while the courts turned their focus from the offence to the family background. “Personal circumstances and personal history were paramount; offending and misbehaviour were regarded as symptomatic of a poor environment or ‘bad breeding’” (Dalley, 1998, p.40). The courts reiterated sentiments reflecting the widespread acceptance of theories of social hygiene and eugenics, where the causes of delinquency were attributed to the intergenerational transmission of a substandard genetic make-up, though these theories were soon to be challenged.

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<sup>6</sup> Though it is the Child Welfare Act of 1925 that is most commonly cited as the beginning of an innovative approach to child socialisation, in reality this later Act served to consolidate the incremental changes to the 1908 Act in the ensuing two decades, suggesting that the innovations began with the earlier Act.

In the early 1910s, under the auspices of the Education Department, a fledgling probation service was introduced. Records kept on the family backgrounds of young people placed in industrial schools (characterising parents as good, bad or undesirable) appeared to indicate a need to reconsider the origins of delinquency. Increasing numbers of young people committed to the institutions were found to have parents classified as being of good character, which was at odds with the traditional understanding of delinquent children originating from depraved or bad parents (Dalley, 1998, p.42). The revised explanation contended that delinquency resulted from poor parenting skills and lack of parental control, rather than bad parents *per se*. With this redefinition of the source of the problem, there was justification for the parents, along with the delinquent, to be supervised and influenced for good in their own home under the probation scheme.

The aim was not only to avoid committal to an institution, but also to “supplement weak parental control” (Dalley, 1998, p.42). The obsession with moral purity is particularly evident in this scheme in that it applied, almost without exception, only to males. Young female delinquents, it was believed, (because of the “particular danger posed by female sexual delinquency to society’s future and wellbeing” [Dalley, 1998, p.44]) were not suitable candidates for rehabilitation within the family home and continued to be institutionalised. The juvenile probation service was officially adopted in 1913, the final year of McDonald’s period of the child as a protected person. It is perhaps fitting that, in a period in which parents are here characterised as a “threat”, the period ends with “an increased willingness to interpret children’s problems as a consequence of parental and family deficiencies” and with the state now “... intervening within the family and directing its attention towards other family members” (Dalley, 1998, p.45). Although demonstrating a move towards examining environmental factors as causes of children’s problems, the move does not entail shifting the focus from parents, merely from their genetic make-up to their skills.

Again the terms related to the period - protected person and threat - have connotations on the one hand of object, victim and subordinate, and on the other of subject, perpetrator and dominator. Unlike the previous period, however, the state is now firmly ensconced in family life, assuming the role of protector of children and establishing the nexus of parent, child and state that persists to the present day. There is also a sense in which parents are delineated as other, as a separate section of the community which does

not always function in the best interests of the most vulnerable members of that community. The final words on the period are best left to McDonald:

From circumstances in which they were free to follow their parents and families, all New Zealand children became, over a comparatively short period of time, clients of the state. (McDonald, 1988, p.172)

### ***Children as social capital, parents as risks to the investment***

In the third period, 1914-1944, McDonald classifies children as social capital, “worthy of investment for the value it may return as a productive adult” (McDonald, 1988, p.vi). McDonald further divides this period into three distinct sub-periods: 1914-1924 when the new social capital ethos began to appear in various practices, such as those related to social hygiene; 1925-1935 as it is evidenced in the implementation of the Child Welfare Act of 1925 and in the continued growth of non-state child health and welfare agencies; and 1936-1944 during which period children benefited equally with adults from the welfare reforms of the first Labour Government (McDonald, 1988, p.173). These sub-periods are of less significance in themselves, but do serve to demonstrate the incremental nature of changes in both public and private thinking whereby significant shifts in what is considered normal, or appropriate, or good, or bad, are made possible.

The ethos by which this era is characterised was instigated by a number of separate, but sometimes related, phenomena. Early in this period the difficulties experienced in raising a physically fit army to send overseas highlighted the ramifications of a (physically) deprived childhood. The material hardships of colonisation and the depression of the 1880s were evident in the poor health status of the adult population. There was acknowledgment of the need to ensure healthy and productive adults by attending to nurturance in childhood. This perspective was reinforced by the occurrence of the 1916 poliomyelitis epidemic, the first of six epidemics up to 1948, which largely affected children (McDonald, 1988, p.176). The massive disruption to family life caused by the exodus of fathers in the First World War was exacerbated by the 1918 flu pandemic, which was hardest on adult males. The resulting poverty, attributable to the large increase in fatherless families, was also recognised as a barrier to ensuring a future healthy adult population. Concern to address these problems was thwarted with the onset of the 1930s depression, and the fatherless family phenomenon was replicated in a second generation with the exodus of yet more adult males to World War II. Complicating matters still further was the manpowering initiative, requiring all women whose youngest child was over sixteen years of age to contribute to the war effort. Women with younger



children, however, were readily employed and the hardships of lone mothers often resulted in itinerant lives for families as “at harvest time, villages of women and children from near and far were assembled for the season” (McDonald, 1988, p.177).

While the wars, epidemics and depression changed much of the social fabric of the society, they also served to draw the nation together in a common cause. As McDonald notes, when describing how homes for the deaf and delinquents were commandeered by the military, “Even the ‘hard core’ of delinquents were caught up in the wartime fervour. ... The sense of purpose and adventure created a spirit of involvement in which no youth absconded for a record eighteen months (sic)” <sup>7</sup> (Peek, 1969, p.15 [cited in McDonald, 1988, p.178]). With a growing conception of nationhood and a desire for concerted and co-operative efforts, the country was increasingly accepting of greater state intervention. The period is marked by a number of significant advances in respect of the health, welfare and education of children.

With the benefit of hindsight and a genuine concern for the welfare of children, John Beck (the first Superintendent of Child Welfare and arguably the single individual most instrumental in improving the status and treatment of children during this period) reported in the aftermath of World War One:

In view of the drain on the resources of the Dominion during the period of the war, and of the need now to increase our productive powers, it is essential that the country should protect and foster its children, that it should utilise the most effective means of conserving the health of the young of the nation, and should also train them that they will be strong and vigorous to carry on not only the vocations of peace but also the practice of war if that be required. In fact, it is difficult to conceive any more important function of the state at the present period than the care of children who are the future citizens of the state. (Appendices to the Journal of the House of Representatives, 1920, E.4:13, cited in McDonald, 1988, p.175)

The statement is a clear enunciation of the characterisation McDonald attaches to the period. Legislatively, the first major advance in this regard was the Child Welfare Act in 1925.<sup>8</sup> While the Infants Act 1908 can be more properly credited with instituting a new approach to child welfare, it is the Child Welfare Act 1925 that initiates state guardianship

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<sup>7</sup> The statement may contain an indicator of the direction of effective research on the causes of *at risk* behaviour. Certainly a sense of purpose and spirit of involvement would seem to hold much potential as protective factors.

<sup>8</sup> Here, too, Beck was influential in that his recommendations on child welfare, following a fact-finding trip to the United States, formed the basis of the Act (Morris Matthews and Matthews, 1998)

of children at risk (with the managers of the industrial schools losing custody in favour of the Superintendent of the Child Welfare Branch who had sole and absolute power over their placement). The Act also introduced the new procedure, in keeping with the prevailing views on delinquency, of laying a complaint against the parents rather than the child. No longer were those who misbehaved to be regarded as offenders against the law, but instead they were to be treated as delinquents (involved in misbehaviour, rather than crime), following the trial of such a view in Illinois in 1899 (Mazengarb, 1954, p.51). The Act made provision, not only for children to be charged where necessary, but also for the mandatory appearance of parents of any children considered neglected, indigent, delinquent, not under proper control, or living in an environment detrimental to their moral or physical well-being. Such a complaint could be made by any constable or Child Welfare Officer. The central aim was to remove children from the criminal arena and to reiterate parental responsibility even in the non-criminal procedures that were developed (O'Reilly, 1984, p.10). Non-specific complaint proceedings were introduced and the Act recognised two broad categories - children in need, and children who offended. The Act substantiated the new ethos which shifted the focus from the nature of the parents to the skills of the parents. While environment continued to be viewed as a primary factor in delinquency, the character of the parents was no longer valid as the essential feature. Parents of good character were also producing delinquent children, and manipulation of the environment, though still imbued with notions of eugenics and social hygiene, now needed to encompass the training of parents in parenting.

This philosophy was not confined to the state child welfare agency, but was promoted vigorously by voluntary organisations, particularly Plunket. In the words of its founder, Truby King, "the child's *character* (whatever the inherited tendencies) may be transformed for good or bad by TRAINING" (quoted in Olssen, 1981, p.17, emphases in original). Indeed King believed the family to be incapable of fulfilling its functions unless the wife-mother had been trained and supervised by scientific experts (Olssen, 1981, p.22). By adjusting the environmental focus therefore, it would be possible to train both the poor and the criminal to become respectable, productive citizens, and this was to be achieved by correcting the deficiencies of the parents. Consequently, the distinction between criminal and neglected or indigent children became redundant. The 1925 Act removed the distinction "with the acceptance that inadequate parenting and poverty led to acting-out behaviour, and that children were merely the victims of circumstance" (McDonald, 1988, p.200).

Though the informal practice of magistrates hearing juvenile cases in private was formalised in the Juvenile Offenders Act 1906, allowing them to clear the Courts and providing a special hour for hearing cases involving defendants under 16 years of age, it was not until the 1925 Act that the Children's Court was instituted, under the auspices of the Child Welfare Branch. In as much as it was now possible for both Child Welfare Officers and constables to lay complaints, the Act provided the possibility of "ending police participation in Court proceedings against juveniles" (O'Reilly, 1984, p.11). Emphasis was on guidance and protection, rather than punishment.<sup>9</sup> Though recognising two broad and distinct categories of children - those in need and those who broke the law - and despite the Act's express intentions of emphasising parental responsibility, children continued to be removed from home and placed in alternate care too readily, indicating a state apparatus critical of parents, but ill-suited to implementing the ethos of the legislation.

Where official responsibility for the welfare of children had previously fallen on the Child Welfare Division and the School Medical Service under the auspices of the Health Department, the 1925 Act shifted responsibility to the Education Department, further entrenching state influence on the socialisation of children. The Act also established the Child Welfare Branch of the Department of Education, the first Superintendent of which was John Beck.<sup>10</sup> In the interests of "prevent(ing) wastage in child-life", traditional child welfare functions were extended enormously and eventually encompassed an array of duties, some of which exemplify the moral and racial attitudes of the era (Dalley, 1998, pp.95-6).<sup>11</sup> The Child Welfare Act 1925 brought to fruition Beck's endeavours to abolish the punitive industrial schools, replacing them with a variety of residences with an accent on training, instruction, re-education and adjustment and reserved in theory for those "special cases, those 'failures' who would not respond to community based care" (Dalley, 1998, p.32). In practice, the homes took a mix of children, as they previously

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<sup>9</sup> Accordingly, special magistrates, accompanied by a "woman referee" were to be appointed. In practice, these magistrates were not appointed, nor their female associates, police continued to be involved, and Children's Courts were not afforded separate premises. The result was far from the intentions of the Act - "an adult Court which had been clumsily modified ... whose powers and procedures were contained in a confusing collection of statutes, rather than in a coherent code reflecting clearly defined aims" (O'Reilly, 1984, p.11).

<sup>10</sup> Beck retained this position until his retirement in 1938. He had been instrumental in considerable reform of the child welfare system, most particularly the state institutional system of industrial schools, even prior to his appointment as superintendent.

<sup>11</sup> Such duties included practical assistance to needy families, overseeing British child evacuees, checking the welfare of children when marriages failed, investigating the circumstances of all ex-nuptial births and supervising Pacific Island children resident in New Zealand.

had, ranging from young offenders to neglected children, those deemed not to be under proper control and the “sexually precocious”. In this respect, the practice is at odds with the ethos that views the problem as emanating from the parents, though, arguably, the practice may be seen as a means of removing children from the influence of incorrigible parents rather than as linked to the recalcitrance of the child.

Of particular significance here is the extension of state responsibility evident in the long title of the Act - *An Act to make better provision with respect to the maintenance, care and control of children who are specially under the protection of the state; and to provide generally for the protection and training of indigent, neglected or delinquent children, 1925* - in that the earlier objectives of care and custody are now augmented with notions of protection and training. Though there is a certain irony in the fact that an Act designed to enhance children’s welfare contained within it, under s.31, the means to deny them the right to a fair trial (since it allowed all offenders to be treated as care and protection cases, removing the need to hear and prove charges), the outcome for parents was the same. Whether criminal or neglected or abused, the child’s appearance in court resulted in official intervention in the family. And if children’s rights were abrogated, so too were their parents’. They were not privy to reports presented to the magistrate (Morris Matthews and Matthews, 1998, p.76), despite the primary importance under the legislation of the child’s personal history and its communication to magistrates in these reports. Nor did they have any right to appeal decisions of the court, and magistrates “often took the opportunity to lecture parents on their child rearing skills” (Dalley, 1998, p.106).

McDonald contends that all child welfare legislation subsequent to the 1925 Act “can be interpreted simply as elaboration of the rights and obligations of the state and its clients” (1978, p.24). The state’s clients, of course, were children and their parents. While some argument can be made for its application to the earlier period, from this point on, an additional characterisation of children can be added to those described by McDonald. The state’s involvement in the family domain in this and subsequent periods demonstrates an increasing tendency for children to be treated as contested territory. In elaborating the rights and obligations of the parties involved in child welfare, the legislation serves to adjust the relative power of those parties in various ways in each period. Each adjustment is indicative of the contest for control of the territory and McDonald’s contention is readily supported by legislative developments since 1925.

The Guardianship Act of the following year is significant in two respects - for the first time it denied superior legal custodial rights to either parent, and it introduced the notion

of the welfare of the child as the first and paramount consideration in all custody matters. Although the welfare of the child had been incorporated into the Infants Guardianship and Contracts Act 1887 and the Adoption of Children Act 1895, the 1926 Act was the first to afford the principle a primary position. Twenty-nine years later the Adoption Act 1955 reinforced this principle and also incorporated consideration of the “interests of the child” and the “wishes of the child, having regard to age and understanding” (s11 [b]).

The developing accent on children and family (and the state’s role in these spheres) that is evident in the legislation of the 1920s was reinforced in the Labour government’s Social Security Act of 1938, with the introduction of an orphan’s benefit, and special provisions in health and welfare that favoured the young and their families. Economic policies during the 1920s and 1930s reinforced the state’s commitment to children through tax exemptions and family allowances, though parliamentary speeches at the time suggest the measures had equal military and eugenic purposes. That is, they were designed to encourage sufficient growth in the white population to counter the perceived Asian invasion and to outnumber the Maori.

The provisions of the 1938 Act served to enshrine the state as a major player in the care and socialisation of children, and encouraged the development of an expectation of state assistance and intervention in many areas of family life. Despite the various misgivings mentioned above, it is clear that there was, in general, a real concern for the welfare of children, and a willingness to accept collective responsibility for their welfare. The increased assistance from the state came at a cost however. The recognition of collective responsibility and its operationalisation through state assistance necessarily entailed an acceptance of decreased parental power and increased state intervention and control. This is evident in areas ranging from the regulations regarding education to matters of custody and guardianship, with each development tending to reduce the parents’ rights over their children and increase those of the state, though during this era children’s rights remained minimal. That is, the acceptance of collective responsibility and the understanding of children as social capital constituted an implicit social contract wherein state assistance in any domain brought with it the right for some degree of state determination of the way things were to be. In short, the state’s explicit role in the socialisation of children (initiated in the Education Act 1877) had become so entrenched that even the supply of free milk at school was accepted as a right and proper investment

in the nation's future. The state's role in defining right and proper parenting also continued.

Truby King's lament on the demise of parenting skills was reiterated in the reports of Education Board Committees and welfare officers alike, and lack of parental control was linked to a new spirit<sup>12</sup> stemming from self-expression, which in turn led to delinquency (Dalley, 1998, p.113). The school health service was transferred from the Education Department to the newly formed Department of Health in 1920 (though its services continued to be provided through the schools), and again parental failure was in the spotlight. Low immunisation rates from the 1920s to the 1940s were unequivocally deemed to be the result of parental apathy (McLean, 1964:356-7 in McDonald, 1988, p.226). The particular irony of the intervention of health services in the schools is that children's rights were - and to some extent, remain - abrogated by children's powerlessness to resist mass examinations, treatments and inoculations at school. Their abrogated rights however, were seen as justified in the interests of increasing social capital, with the public and private benefits intermingling in a manner and to a degree not previously experienced. The combination of the might of the Department of Education (including the Child Welfare Branch) and the Department of Health, along with the emergence of the era of the medical expert however, presented a formidable power for the governing of children both at home and at school.

Thus the state had become not only the protector of children, but also increasingly sought to regulate the parent/child relationship and to define the requisites of good parenting. With the introduction of the welfare state under the Labour government in 1938, it also became a provider, in as much as it supplemented parental income and established an ethos amenable to the state provision of extended services once the exclusive domain of parents. The Social Security Act 1938 "was a welfare revolution which affected the lives of all children"(McDonald, 1988, p.180). Since the future of the nation was dependent on the nurturance of a healthy generation of future adults, the state not only protected children but also prescribed an ideal standard of childcare informed by a new appreciation for the expert skills of science and exemplified by Truby King and the Plunket Society.<sup>13</sup>

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<sup>12</sup>The term is to be understood as relating to a perceived precocity on the part of children, much at variance from the previous expectation that children be seen and not heard.

<sup>13</sup> By 1930 sixty-five percent of all non-Maori children were "under the control and care of the Society", a figure which climbed to eighty-five percent by 1947 (Olssen, 1981, p.11).

Of particular significance to the present work is the notion, both explicit and implicit, that parenting is a skilled and complex task in which parents require the advice and support of experts and professionals if they are to be successful. While the previous period invoked the notion that some parents were bad, this period questions the competency of parents as parents, whether good or bad as individuals. Children were no longer chattels of their parents, but were social capital, with a potential far too precious to be left to the vagaries of untrained, unscientific parents. Parenting could no longer be left to parents alone, and the introduction of helping agencies, such as the Plunket Service, despite their laudable intentions, served to further undermine confidence in the performance of parents as parents, by virtue of the elevation of parenthood *per se*. That is, the introduction of scientific approaches to raising children and the advent of experts in the field raised the status of parenting such that the role and ability of parents in this task was clearly considered limited and in need of augmentation and surveillance. It might be added that an ability to raise children in an officially sanctioned manner was perhaps closer to the truth in terms of what was required of parents.

The notion of social capital, of investing resources today for the return on the investment that will accrue tomorrow, is suggestive of the state acting as a fundmanager, and of parents being viewed as risks to the realisation of the full potential of the developing asset. The boundaries between the private and public spheres, it seems, were blurring further, while at the same time the separateness of that group - parents - receives further emphasis. Though social capital has the ring of the chattel of the first period, parents are no longer exclusive owners, and the state increasingly assumes this role, contesting territory once the exclusive domain of parents. Children are a community resource worthy not merely of protection, but also of investment. While the terminology relating to this period still gives an understanding of children as objects, the notion of community, rather than individual, property is introduced, along with a more positive perspective of children that is connected with potential and the reaping of rewards in the future. Parents on the other hand, now share the role of the subject with the state (though the former in a much more negative light), and along with losing exclusive rights to the child, have also lost the assumption that they are up to the task previously regarded as their natural role.

### ***Children as psychological beings, parents as emotional trauma***

While the prevailing notion of family that characterised the Social Security Act 1938 remained largely unchallenged through the following decades (and indeed the nuclear

family is still promoted as the ideal family form), the values and beliefs of a war-torn world were no longer unitary. Pluralism became the norm. The post-war era in the developed nations was characterised by a rejection of many of the old ways and the values and morals associated with the past. The ascendance of theories of human development and behaviour in the period 1945-1968 resulted in the child being characterised during this period as a psychological being, with nurturance and intervention being consciously guided by these theories. There is an extension of previous concern for the material and physical wellbeing of children such that emotional wellbeing assumes increasing importance throughout the period.

Major advances in the biological sciences were augmented with theories from the new and rapidly expanding psychological discipline in the search to find ways of explaining behaviour. McDonald characterises the state during this period as “the guiding state” (though arguably this could also be applied to the previous period), and cites “growth” as the keynote of the period (McDonald, 1988, p.241). Central to the adoption of a psychological approach was the belief that “if the causes of behaviour could be understood, then lives could be shaped and guided at any stage” (McDonald, 1988, p.243).

The amelioration of the effects of post-war affluence was seen to be best effected by means of psychological adjustment, and in order to forestall further growth in prevailing delinquency rates, effective personality adjustment in the pre-school years was advocated (McDonald, 1978, p.50). Education became child-centred, and a similar approach to child rearing was endorsed. There was over this period a series of measures directly resulting from the psychotherapeutic approach, in which adjustment replaced attainment as the end goal of intervention, and notions of duty were replaced by theories of self-fulfillment.<sup>14</sup> The influence of the developing research and literature on children is evident in many of the legislative changes of the period including the raising of the age of criminal responsibility from 7 to 10 years in 1961 (indicating a growing awareness of the developmental path) and improved access to divorce through the 1950s and 60s. While some changes in divorce legislation recognised the potential trauma inherent in

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<sup>14</sup>Among these measures were the beginning of the visiting teacher scheme to enhance school and home liaison for children with behaviour problems in 1943, extension of speech therapy services from 1942 to a total of 106 primary school clinics by 1970, the establishment of a psychological services division of the Department of Education in 1945, the opening of a residential school for maladjusted children in Mt Wellington by the Department of Education in 1960 and the appointment of guidance counsellors in secondary schools in the same year (McDonald, 1988, pp.250-1).



acrimonious and protracted proceedings to the parties involved, particularly children, other changes reflected prevailing theories such as the mother principle<sup>15</sup> and resulted in the previous paramountcy of fathers in custody hearings being almost reversed in favour of mothers by the 1950s.

There was an explosion in the child welfare and justice sectors - a separate juvenile section was added to the police service and the Child Welfare Division expanded on all fronts. McDonald's earlier notion of social capital, reflecting concern for the impact of childhood experiences on adult behaviour, can be seen to be altered to encompass and focus on emotional, rather than physical, nurturance. In child welfare, family homes were introduced to accommodate those children who were considered unsuited to fostering in private homes but for whom the training institutions were inappropriate. The family homes were specifically bought or constructed and equipped for the purpose, and run by a married couple (with the male expected to have outside employment) at a special fostering rate. Though most were capable of holding up to twelve children, a lesser number was preferred. The concept grew quickly with the first home opening in Whangarei in 1954 and the total reaching 78 by 1972 (Dalley, 1998, p.243). Though considered a great success - and considerably cheaper than institutionalising the children - the homes were not without problems. Most often, the rate of payment was a bone of contention, though this was directly related to the demands made on the mother of the home and the attrition rate amongst family home parents was high. "By 1968, of the 120 couples who had presided over family homes, 87 had resigned after a median term of 22 months"(Dalley, 1998, pp.244-5) - testament more to the pressures of the position perhaps, than the absence of a financial windfall.

The period is also credited as being the time during which a specific - and for some alarming - youth culture developed. The garb and behaviour of the most distinctive element of the new youth culture - bodgieism - caused moral panics similar to those surrounding larrikins in the late nineteenth century and during the 1930s to resurface in the relative prosperity of the 1950s. The symbolic defiance of the dress, music and dance of youth during the 1950s and 1960s eventually became institutionalised and this creation of a culture for youth, by youth, marks the emancipation of youth from adult control (McDonald, 1988, p.254). The (grudging) acceptance of youth culture demonstrates an

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<sup>15</sup> Doubtless influenced by the cults of domesticity and true womanhood, these theories centred on the relative greater importance of mothers, rather than fathers, in children's formative years. See Stacey, J, 1996, p.40.

unprecedented acknowledgment of increasing self-determination by youth. Adult control was not relinquished easily however, and perhaps the best known of the moral panics of the period was the Lower Hutt juvenile sex scandal<sup>16</sup> and the subsequent Mazengarb Report in 1954.

Though examining an array of possible contributory causes, the Report detailed the finding “in harmony with the current of public opinion expressed in statements that ‘it all comes back to the parents’ or ‘parents are to blame’” (Mazengarb, 1954, p.41). Note was made that a third of the adolescents under investigation came from homes where the mother worked, and working mothers became a particular target, to the extent that politician William Blair Tennent viewed the incident as conclusive proof “that mothers had not realised their responsibility” (Dalley, 1998, pp.185-6). Two thirds of the mothers were not in paid employment, but the minority that did work constituted grounds for further vilifying parental performance. The criticism of parents is all the more worrisome in light of the acknowledgment in the Report of “... the ever-increasing way in which responsibilities in character building are being assumed by schools, libraries, clubs and many other organisations” (Mazengarb, 1954, p.35). Despite noting the increasing influence of schools and other institutions on character building, the Report continues to regard parents as the likely weakness or cause of problems. It also suggests the intervention of other agents “has ... made parents less heedful of their own personal responsibilities for the training of their children” (Mazengarb, 1954, p.35).

The tone of the report was generally unsympathetic towards the new psychological approaches to children, but stopped short of open criticism of them, again indicating the protracted nature of the process of change in the public arena. Instead, the Report was conservative, reactionary and moralistic, and a copy was distributed to every household in the country (McDonald, 1988, p.255). It is likely that its distribution did little more in the political arena than serve the purpose of creating the illusion that the state was doing something about the problem, a problem now redefined as one of parental deficiency. Private attitudes to parents, however, are likely to have been negatively affected by the distribution of the report, once more undermining and devaluing their position and status.

Despite the moral panics and the conservative reaction in some quarters, the psychotherapeutic approach prevailed. Non-state agencies moved to a style of service

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<sup>16</sup> The scandal involved consensual sexual relations among a group of high school pupils.

based on the counselling model, with the history of the development of the Presbyterian Social Services Association in the early 1960s demonstrating this:

Increasingly as the work developed, it became more apparent that underlying the majority of problems - the lack of finance, the lack of adequate housing, delinquency, illegitimacy, etc - were more significant factors. Feelings of general inadequacy and loneliness leading to an inner lack of harmony and conflicts in personal relationships were the more basic problems, and by helping to solve these it was hoped that many of the situations that were met by the social services would be prevented (Wilson, 1981, in McDonald, 1988, p.279).

Within this model, the solution to presenting problems, such as lack of finance or delinquency, was to be found in addressing feelings of inadequacy and loneliness - matters suited to counselling.<sup>17</sup> Social work became a profession for which qualifications were progressively introduced, and qualified staff were sought by both government departments and the non-state services. The state's direct influence is evident in the Department of Justice's funding of Marriage Guidance Councils from 1959, part of whose work included family life education in schools, and, less directly, in their role in reconciliation practices under the legislation on resolving marital disputes, which sought to minimise distress for children.

In education, the Currie Report (1962) presented a strong defence of modern methods and is "unconditionally supportive of the psychotherapeutic ideal" (McDonald, 1988, p.286) in its approach to juvenile delinquency. Many of its recommendations on juvenile delinquency and the schools were enacted over the following decade, particularly those advocating guidance counselling. A 1969 Working Party on Guidance in Secondary Schools aimed at "an institutionalised framework of normalcy" on the grounds that all pupils have "educational, vocational and adjustment needs which can be met by teachers with special skills". Guidance counsellors were to be teachers first, counsellors second, with the position renamed "guidance teachers" (McDonald, 1988, pp.286-8). These changes were facilitated by increasing calls from the mid and late 1950s onwards for the upgrading of child psychiatric services which had been evaluated as primitive and inadequate (Ironsides, 1955, pp.233-7 in McDonald). Canterbury Mental Health Council organised a conference in 1961 in which children featured prominently as subjects in papers presented. As a result of the conference, and with the endorsement of the

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<sup>17</sup> There is a certain irony in the counselling model's assumption that, rather than material factors, the psychological problems were the significant issues. The psychological impact of inadequate housing, for instance, might be better addressed by the provision of adequate housing than by counselling in regard to the feelings of inadequacy engendered by poor housing.

Minister of Health, “the psychotherapeutic ideal was taken up as an official direction for new practices” (McDonald, 1988, p.303). The education sector was heavily influenced by this approach, as were the justice, welfare and health sectors.

The precursor of today’s Youth Aid Section, the Juvenile Crime Prevention Centre, was established by the police in 1957, reiterating the emphasis on prevention rather than punishment in child justice matters. In 1960 appeal rights against Children’s Court decisions were instituted and regulations covering the licensing, registration and inspection of child care centres were gazetted. The Guardianship Act 1968 reiterated the principle of the welfare of the child as the first and paramount consideration, and gave impetus to the civil rights aspect by incorporating the mandatory consideration of the “child’s wishes, having regard to age and maturity” (s23 [2]). This Act also made provision for children to initiate Court action through any adult person on their behalf (s17 [3]), opening the way for children to challenge their parents in the legal arena.

McDonald describes the period as one encompassing a tension between two distinct value systems, one based on conformity, the other diversity. The conformists, represented by Mazengarb, advocated continuing adherence to traditional moral conventions while their adversaries acknowledged wide individual differences and human experiences. Though not denying the importance of childhood experiences in determining adult character, there was an emphasis on enjoying childhood for its own sake, and following from that, a belief that fulfillment was of greater importance than achievement (McDonald, 1988, p.308). Though the period cannot be characterised as one in which there was a great deal of legislative or administrative change, there is a good deal of evidence that there was considerable change in the practices of those involved in child welfare, and in the value system of post-war society as compared to the previous period.

While McDonald views this as a significant shift - indeed as a “quantum leap” (McDonald, 1988, p.309) - there is a sense in which the changing practices, values and relationships reflect more of a continuity than the discontinuity that he suggests. Considerations of, and practices addressing, the emotional wellbeing of the child can be viewed as an extension of earlier concerns for other aspects of the child’s wellbeing. McDonald’s contention that “practices in the governing of children changed in such a way as to be never the same again” (McDonald, 1988, p.244) is one that might apply just as easily to the previous - or following - periods, and sits uncomfortably in a work that relies on change in order to isolate the particular periods he delineates.

His argument here suggests that there is no going back (though this is not substantiated historically), yet previously, and sensibly, he notes that each period contains within it vestiges of the attitudes and practices of previous eras, that change is gradual and cumulative rather than as abrupt as the arbitrary dates for the periods would suggest. Accordingly, the implementation of the Adoption Act 1955 and the practices surrounding it are suggestive of children once again being treated as chattels, as they were in the first period. Similarly, implicit in notions of the child as a psychological being are aspects of the child as social capital and protected person.

Irrespective of this argument, however, throughout the period the state can be viewed increasingly as the therapist for the child, and the parents' position seen as somewhat ambivalent. At best they had some degree of parenting competency, at worst, their parenting efforts produced trauma which the child needed to be assisted in overcoming. The assumption of benevolence that once pertained to parents was now bestowed upon the guiding state and the position of children was beginning to assume proportions reflecting growing public consciousness of the civil rights movement. Parents, on the other hand, were increasingly marginalised as emerging theories on parenting and human development cast doubt on the methods of the previous generation, and emphasis on the long-term implications of adverse childhood experiences created an environment of suspicion and surveillance.

Perhaps with the exception of religious or spiritual matters, it was now within the state's ambit to influence the socialisation of the whole child. The adoption of the psychotherapeutic approach by both the state and voluntary sectors filtered through to the wider population. The popularity of newer methods of child rearing - the child-centred philosophies of Dr Spock, for instance - which were often in direct contradiction to the practices and philosophies promoted by Truby King, reverberated with the language and ideas of the psychological approach and left the previous generation of parents with the suspicion that they may have erred significantly. By now the boundaries between the public and private spheres had all but collapsed, while the boundaries between parents and children, and parents and the state had become increasingly marked.

### ***Children as citizens, parents as equals***

The final period outlined by McDonald is that between 1969 and 1982, though arguably, the characterisation of the child as citizen continues to have relevance in 2000. This characterisation is based on the emergence of the children's rights movement in many

western countries and its influence on policies and practices affecting children. The mid-1970s combined the effects of a perspective of children as psychological beings with the principle of the paramountcy of the best interests of the child and the movement towards children's rights. Concerns about the delinquency of minors, and the abuse or neglect of children and young persons persisted, but resolution of the problems now faced a further complication. The intricacies of ensuring that human rights (whether full or abridged) were not contravened was added to the already complicated landscape wherein parents and the state maintained an unsteady alliance in the care and control of children and young persons.

While the state functioned as a protector of children's rights, it also functioned in a contradictory capacity as guardian of children, as protector of their physical and emotional wellbeing - a role often requiring practices contrary to the notions of social justice implicit in viewing children as citizens. These twin endeavours - of nurturing and protecting, of controlling and deterring - were once entirely in the private domain, the prerogative of parents, and seldom publicly acknowledged as inherently contradictory. While parents retained general responsibility for the care and custody of their children over this period, the surveillance of the state increased, though the relative power of the state tended to wax and wane as policy was developed and implemented. Again the cumulative and incremental nature of change is evident in the policies and practices of this period, as is the dialectical process which typifies the tension between the old ways and the new. The character of the period is evident in the legislation from the outset.

The Status of Children Act in 1969 sought to remove the social stigma and legal disadvantages accruing to those who were born out of wedlock. The term "illegitimate" was outlawed, and in the eyes of the law all children were equal with each other, if not with adults. This theme of equality, by then becoming an international and fervent crusade for the rights of certain groups of adults (most notably women and blacks), was eventually echoed in lobbies for increased rights and greater public and private concern for children. The Status of Children Act is, in this sense, representative of a relatively progressive attitude to children born out of wedlock. None the less, it was not until 1972 that the morals clause (excluding people of dubious moral character from state financial assistance) in the social security legislation, was rescinded on the recommendation of the Royal Commission on Social Security of that year, on the grounds that it was children who suffered most from such discrimination (McDonald, 1988, pp.317-8).

In April 1972 the Child Welfare Division was removed from the Department of Education and was amalgamated with the newly formed Department of Social Welfare. Amongst major developments in its first decade of operation was the passing of the Children and Young Persons Act in 1974. The philosophy of the Act was given expression in clearly enunciated objectives and principles, explicitly recognising the parent, family and community, and building these objectives and guiding principles into the legislation to a degree that had not previously been attempted (DSW Report on Proposed Changes, 1984, p.4). It delineated between children (those under 14 years of age) and young persons (those aged 14 - 16) and prohibited prosecutions against children other than for murder or manslaughter. For those between 10 and 14 years of age, when offending was on a scale or of a nature that necessitated a Court referral, it allowed a complaints procedure only, effectively decriminalising most offences by children and young persons.

This procedure entailed either the police or the Department of Social Welfare bringing a complaint, addressed to the parents, that the child was in need of care, protection or control. Offences by children were to be dealt with by Children's Boards<sup>18</sup>, referral to which was dependent on admission of guilt and absence of reparation concerns. The Boards, ostensibly a means to reduce the power of social workers and professionals, could advise, counsel, warn, admonish and make recommendations, but could not make orders. Final decisions and actions remained the prerogative of the original referring agency - usually the police or Department of Social Welfare, ensuring the balance of power remained with the state.

For young persons, either prosecution or a complaints procedure could be used, though for those aged 15 or more, the special court philosophy of the Act could be over-ridden by referral to the District Court for sentencing (O'Reilly, 1984, p.13). More usually, and providing the young person did not elect trial by jury, charges were laid in the Children and Young Persons Court, established under the Act. In an extension of the Juvenile Crime Prevention scheme of the 1950s, the Act formalised Youth Aid consultations for young persons.<sup>19</sup> Increased attention to legal issues and due process is evidenced in the

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<sup>18</sup> Children's Boards were introduced to hear complaints and cases involving children up to fourteen years of age. They were comprised of a social worker, police officer, representative of the Department of Maori Affairs and - as an afterthought - a community representative (Dalley, 1998, p.284).

<sup>19</sup> Though bringing together the three services primarily concerned with young offenders - the police, Departments of Social Welfare and of Maori Affairs - in order to determine appropriate courses of action for individual offenders (either prosecution or out-of-court action), the final decision remained with the police.

provisions allowing legal assistance and legal aid to children in arrest and arraignment procedures, irrespective of their parents' wishes, though not irrespective of their means. In this, the Act would seem to compromise its recognition of the importance of parents and family in the management of young offenders. The adoption of a welfare approach to young offenders reiterates previous policy and practice that views young offenders as themselves victims.

Though allowing complaints procedures and prosecutions in the most serious of cases, the 1974 Act decisively supports a welfare approach. This is reflected not only in the decriminalising of offences by children and the conjuncture of care and protection and youth justice matters, but also in the range of measures available to the Court. There was, in fact, no legislative distinction between children and families in need of care and protection, and children who offended against the law. The long title of the Act gives clear indication of the perspective from which children and young persons, and their offending, is to be viewed:

An Act to make provision for **preventive and social work** services for children and young persons whose needs for care, protection, or control are not being met by parental or family care and who are, or are at risk of becoming, deprived, neglected, disturbed or illtreated or offenders against the law (emphasis added)

The hitherto informal preventive aspects of the work of the Child Welfare Branch were given statutory recognition in Section 5 of the Act, which charged the Director-General of DSW with responsibility for undertaking preventive work in the direct interests of children and young persons. Additionally, the Children's Boards<sup>20</sup> aimed to "work with parents and children on a co-operative, supportive and informal basis to help parents correct their parenting defects or to forestall further offending by children" (McDonald, 1988, p.387). Again, there is an assumption of a direct relationship between offending and parenting capacity to the exclusion of other possibilities. Although McDonald regards the responsibilities of parents in regard to the supervision and care of children to have been spelled out more explicitly in this Act than in previous legislation (1988, p.335), the territory remained largely uncharted. With the exception of Section 9, making it an offence to leave children without care and supervision, and Section 12, giving the police powers to uplift children found unaccompanied in public places, much of the rest of the Act simply updated the 1925 Act to fit the new philosophy. Problems with the

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<sup>20</sup> In practice, the Children's Boards had no statutory powers and were frequently circumvented by police and social workers alike (see Dalley, 1998, pp.285-287).



implementation of the Act, and a growing call to strengthen the protections for children's rights eventually led to a review and subsequent replacement of the Act in 1989, a process outlined in Chapter Five.

Although the delineation of children's rights continued well past 1982, the period is aptly characterised by McDonald. The characterisation, however, is fraught with inherent contradictions, for, if children are to be regarded as citizens, parents must be regarded as their equals. Clearly this is not strictly the case, since children are restricted from certain activities, such as drinking alcohol and some forms of gambling, and are at the same time afforded rights and protections which are not available to adults, such as those pertaining to the necessities of life, police questioning or education. At a more general level, however, social justice and human rights legislation dictates that children and adults be accorded the same rights and protections. Inevitably, therefore, there will be occasions when children's rights and their parents' rights will collide. Of particular relevance here is the very development and acceptance of a degree of equality for children (if equality can indeed be conferred by degrees) and the implications for parents in the expectation that they be responsible for the control of equals. While the state is also enmeshed in the intricacies of ensuring it does not breach children's rights, it is possessed of an authority over both children and their parents which has no parallel in the private domain.

The notion of equality with the state - either of parents or children - is nonsensical. The notion of equality between parents and their children, however, comes to be increasingly promoted and supported by state agents and associated professionals in much the same manner as was the psychological approach in the earlier period. Indeed, in view of the increased marginalisation of parents and the ready acceptance of parenting problems as an explanation for the aberrant behaviours of children, it can be argued that children have assumed a superior position in relation to their parents in the public arena. By virtue of their potential and innocence, children hold the high moral ground. As possible threats to that potential and innocence, their parents have been manoeuvred into a subordinate position in the parent-child relationship, though they are still assigned the duties and responsibilities of parenthood.

### ***Conclusion***

McDonald's analysis ends in 1982 and clearly there have been further changes since then. His criterion for the analysis is the degree of difference in the status and treatment of children for each period, premised upon prevailing social values. He demonstrates a

gradual shift from children's rights "being almost wholly implicit to being both implicit and explicit, and exercised by the claimants" (McDonald, 1988, p.397). The partial retreat of traditional socialisation agencies, such as the family and the church, and the advance of the state into this previously private domain is also noted in his analysis.

In a process reflecting Demos's periodisation of family history in the US<sup>21</sup>, McDonald demonstrates the gradual progression of children's status under changing social conditions over the course of some 142 years, from a state of negligible consideration in the colonial era, through increasing consideration as persons in need of protection, guidance and investment, to a state of consideration as individual possessors of rights. His analysis outlines increasing state intervention and the professionalisation of child rearing along with the privileging of expertise. The therapeutic discourse becomes the framework through which the family, parents and children are understood, though in McDonald's analysis, the child is the focus. Through this focus, however, it is possible to gain an insight into each era's understanding not only of what constitutes a good parent, but also of the sorts of failings that apply to bad parents.

Initially the fault is attributed to biology and this is modified in various ways in each period. Never, however, is the role of the parents passed over as the most likely cause of problems. Though social conditions are acknowledged as relevant factors, they are always secondary to familial factors. As a consequence the analysis shows an incremental and cumulative (though not always necessarily intended) erosion of both the legal status and *mana* of parents over the period under review. Their status and *mana* were diminished in both the public and the private domains, initially as the state assumed a larger role in the family domain, and latterly as a result of the ascendance of the therapeutic approach and its attendant attitudes to the status and treatment of children and young persons. The analysis concludes amid the beginnings of an unprecedented advocacy for children, which has been enabled by further shifts in prevailing values. The ramifications of this in the current era, where change is at a pace and of a nature such as to challenge the most stable of individuals, families or communities, is the crux of the present work. An examination of the years subsequent to McDonald's analysis is therefore necessary.

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<sup>21</sup> Demos, 1986.

## CHAPTER FOUR

### **Changes in legislation, changes in ideology - effective empowerment?**

The preceding chapter noted a growing consideration of children, culminating in a characterisation of children as citizens and an understanding of children that increasingly viewed them as rights holders. The impetus given to this perception by the designation of 1979 as International Year of the Child did not abate in the ensuing years. Indeed, McDonald acknowledges further advances in the epilogue to his thesis - the Adult Adoption Information Act 1985, the adoption of community-based childcare schemes such as *Maatua Whangai* and the establishment of an Advisory Committee on a Maori Perspective for the Department of Social Welfare in 1986 (McDonald, 1988, pp.404-5). These advances comprised part of a more general thrust to ensure still greater consideration of, and rights for, children and young persons, a concern evident in a series of amendments to the Children and Young Persons Act 1974. The 1974 Act and its subsequent amendments are examined in greater detail here, noting the concern surrounding the power of the professionals, the pre-eminence of the psychotherapeutic approach and problems which beset the Act's implementation. This enables a deeper insight into its underpinning ideology and allows this to be contrasted with the ideology in which the later legislation is embedded.

Amendments to the 1974 Act were eventually deemed inadequate and new legislation - the current Act - was enacted in 1989. The new legislation was implemented in an ideological context far removed from that of its predecessor, however, and the ascendance of New Right ideology inevitably affected the legislation and its implementation. The philosophy underpinning changes in social and economic policy since 1984 is outlined in order to provide an understanding of the context within which the current legislation is operationalised. The family empowerment ethos of the legislation is contrasted with the individualism inherent in New Right philosophy. This philosophy is evident not only in child welfare - exemplified here in changes in residential and foster care policies, but also in other areas affecting the parent/child relationship less directly - health and education, for example - where changes devolve responsibility, though not always power, to individuals and local communities.

### ***Causes and consequences of the 1974 Act***

While there had been many changes in policy and practice in multiple arenas affecting the welfare, status and treatment of children and young persons in the fifty years following

the Child Welfare Act 1925, the Act itself had not been substantially revised since its inception. Its ability to accommodate prevailing social conditions and values was increasingly compromised and its practical expression in the actions of those who operated under the Act drew increasing criticism. Of particular concern was what was deemed the inordinate power of the professionals, which not only undermined the position of parents but also threatened the growing understanding of children as citizens.

This concern is reflected most forcefully in the submission of the Auckland Committee on Racism and Discrimination (ACORD) to the Parliamentary Select Committee considering the Children and Young Persons Bill 1974. The submission presents a withering attack on both the existing legislation and practices, and on the submission process itself. Existing policy and practice ill-served the “thousands of children since 1925 whose lives have been ruined beyond repair by the combined activities of the police, judicial and child welfare systems”, as the professionals assumed control of child welfare decisions, often to the exclusion of “their confused, distressed, often uncomprehending and always much maligned parents” (ACORD, 1974, p.2). The submission clearly aligns power with the professionals and - in often strident rhetoric - details the ways in which the power of the professionals is used to the detriment of children and their parents.

Though primarily concerned with institutionalised racism, the submission alleges frequent departures from prescribed procedures, circumvention of due process and flagrant disregard of existing law by the various authorities. Despite the stipulation of the Crimes Act 1961 (s21) that children under 10 could not be prosecuted, children as young as eight continued to be prosecuted. Vagrancy was a common charge, and it was usual for the child or young person to be arrested, rather than summonsed. This resulted in the matter going straight to Court rather than being referred to the police Youth Aid Section, with the possibility of addressing the matter without recourse to the Court. With arrest procedures there was little chance to have the charges withdrawn or modified and little chance to obtain counsel. There were also allegations of children and young persons being held in prison on remand without a parent's knowledge (ACORD, 1974, p.3). Such practices effectively assumed guilt on the part of the child or young person and excluded parents from the process, implicitly assuming a measure of guilt or incompetence on the parents' part and denying them the opportunity to undertake the responsibilities of parenting at a time when their offspring most needed it.

Similarly, ACORD alleged that police would conduct prolonged questioning without informing parents, without legal advice or representation for the child or young person, and often resulting in signed, admissible statements by children and young persons. The provisions of the Child Welfare Amendment Act 1927 (wherein no judicial proceedings may be heard until a Child Welfare Officer has investigated the circumstances of the case and reported to the Court) were not followed, and fifteen year olds were routinely sent to prison, borstal or detention centres despite the legally stipulated minimum age of sixteen (ACORD, p.4). The submission is critical of the failure to draw on the experiences and ideas of community groups when drafting the Bill, and raised objections to specific sections of the proposed legislation. Though applauding the innovation of Children's Boards, for example, ACORD found their composition and jurisdiction reduced them to little more than "window-dressing" (ACORD, 1974, p.10). In noting the history of defensiveness to criticism on the part of the police, judiciary and social welfare, ACORD expresses alarm at the assumption of DSW in drafting the Bill that "it had the expertise to provide answers for the future" (ACORD, 1974, p.7). ACORD also takes issue with the submission process and its failure to encourage submissions by the children and parents likely to be most affected by the legislation, a process further reflecting the power of the professionals and the invisibility of parents and their children.

They have no organisation to speak for them. They have not been invited; they have not been offered translation services; they did not have the resources to have thirty copies of their submissions printed. And in many cases no-one ever bothered to explain to them how the old Child Welfare Act operated. Even though they were prosecuted under it, they are in no position to compare it with the new Bill. Yet they, and their children are perhaps best qualified to comment on these new proposals - after all, they are the so-called 'problem' this Committee was set up to talk about.

(ACORD, 1974, p.2)

Though particularly vehement in its criticisms, ACORD's submission none the less reiterated the concerns which had given impetus to attempts to draft new legislation<sup>1</sup> - the failures to follow correct procedures, the exclusion of family and community from the decision-making process and the imperious attitudes of the professionals. These concerns did not abate with the introduction of the 1974 Act and ACORD was prominent in urging continuing reforms in child welfare, particularly in regard to practice. Indeed the Act was barely in place before criticism began. Problems besetting the child

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<sup>1</sup> Proposals to address anomalies and omissions in the 1925 Child Welfare Act had begun as early as 1949, though attempts for many years to introduce a bill to the House proved fruitless (Dalley, 1998, p.264).

welfare sector following the Act's introduction need to be considered in conjunction with the legislation itself. The ethos and major changes instituted in the 1974 Act were outlined in chapter three - the welfare approach to juvenile offending, the delineation of children and young persons and the recognition of family and community as a means of limiting the power of the professionals. This understanding is extended here through an examination of the detail of the Act and its amendments.

### ***The 1974 legislation***

Because youth offending is effectively decriminalised under the Act and treated as equivalent to care and protection cases, the legislation applies in both instances. Section 27 of the Act sets out the eight criteria by which a child or young person is deemed to be in need of care, protection or control. These criteria relate to the behaviour of either the parents or the child or young person. The first three subsections refer to parental failings such as abuse and neglect resulting in impairment of physical and mental health and development. The fourth distinguishes these failures from a more general failure in that it is concerned with the failure, inability or unwillingness to carry out the "duty and care of parenthood". In a similar vein, section 27 (g) relates to the inability or failure of parents to provide adequate training or control, though this criterion differs significantly in that it relates to parents' failure to forestall their offspring's antisocial or delinquent behaviours. That is, the child or young person's behaviour is treated as a reflection of parental (in)action.

The remaining four criteria are concerned with the child or young person's behaviour, as opposed to the parents'. Sections 27 (e) and (f) stipulate the need for care, protection and/or control when the child or young person is behaving, or has behaved in a manner which (i) "is beyond the control of his (sic) parents ... and (ii) of such a nature and degree as to cause concern for his well-being or his social adjustment or for the public interest." Section 27 (i) is similarly worded but relates to children over the age of ten who have committed offences of a number, nature or magnitude such that the above is applicable. These sections delineate a subtle distinction between behaviours beyond the control of the parents and behaviours resulting from the parents' failure to control or train the child or young person, as described above. While the distinction is subtle, it is of primary importance to parents. Perceptions of parents, and their self-perception, will be affected in different ways dependent upon whether the child is considered out of control or the parents are considered to have lost control. The inclusion of the separate criteria in the Act is evidence of an awareness of the importance of the distinction by those who

formulated the legislation. It is contended that the distinction did not transpose well into practice, however, with the two criteria tending to be seen as equivalent and the child's behaviour routinely being considered as a reflection on the parents.

The remaining clause (s27 [h]) cites truancy as an indicator of the need for care, protection and/or control. This behaviour can be attributable to either parents or children, through either the parents' failure to ensure attendance, or through the child's or young person's refusal to attend. As such, it could be subsumed under various of the other criteria, but its inclusion as a separate criterion suggests the behaviour was deemed to be of sufficient significance to warrant specific mention in the Act. Its inclusion ensured automatic referral of truants as in need of care and protection and provided a ready means for early intervention. That is, further or escalating *at risk* behaviours could be forestalled by intervention in truancy cases.

In all instances, the course of action proposed for any person exercising any powers conferred by the Act must have, as its first and paramount consideration, "the interests of the child"<sup>2</sup>(s4) to the extent that the proposed action is consistent with "(a) securing ... such care, guidance and correction as is necessary for the welfare of the child ... and in the public interest; and (b) conserve or promote ... a satisfactory relationship between the child or young person and other persons (whether within his family, his domestic environment, or in the community at large)." The latter of these lends credence to the Act's intentions of recognising parents, family and community, though it is far from a resounding endorsement and its translation into practice was problematic. Furthermore, the subsections denoting the parameters within which the paramountcy principle should operate attracted considerable attention soon after the Act's implementation.

As early as 1976 prevailing practices were challenged as failing to uphold the paramountcy principle by assigning priority to parents and the public<sup>3</sup> (Report of the Steering Committee on a Bill of Rights for Children, 1976, p.9). In the view of the Steering Committee, the primacy of the paramountcy principle was being compromised in the processes and practices of those implementing the Act through the failure to separate the parents' interests from those of the child. That is, the best interests of the

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<sup>2</sup> Referred to as the paramountcy principle, the "best interests of the child" should be understood as inclusive of young persons.

<sup>3</sup> As noted, the "best interests of the child" is a notion that was, and remains, a subject of much debate. Not only is there conflict concerning whether determining best interests should take a long or short term approach, but also concerning the relative weight that should be accorded to parents and family in any determination.

child were being subsumed under the interests of parents or in the public interest. Clearly the Committee was of the opinion that too great an emphasis was falling on the parents' or the public's interests, to the detriment of the children and young persons involved. Problems with the paramountcy principle - both its wording and its operationalisation - continued into the 1990s, despite amendments and the eventual introduction of new child welfare legislation.

### ***New legislation, old habits and the power of the professionals***

Though the legislation aimed to divert offenders away from the court system, in practice it generated a mixed response and engendered a tendency to circumvent boards and go straight to court, a practice that differed little from those criticised by ACORD prior to the introduction of the Act. In particular, the Act did not represent a response for young persons (the bulk of young offenders) who effectively experienced the same process as that in place since the late 1950s (DSW Report, p.3). Following the Act's introduction, various groups (including departmental officers) noted issues that required review and amendment. Official concern encompassed a number of the misgivings outlined above - deficiencies in operation of children's boards, continuing reliance on custodial care of offenders - as well as concern for the lack of resourcing of Children's Courts, and a lack of focus on preventive activities (Renouf *et al*, 1989, para.5).<sup>4</sup> Pressure for reform also came from outside the department. Medical and legal professionals gave voice to the growing alarm at increasing evidence and awareness of child abuse, leading to the establishment of the National Committee on Child Abuse, the members of which became advisers to the Minister of Social Welfare, Venn Young, in the early 1980s. Further external pressure emanated from organisations such as ACORD on matters ranging from youth justice and due process, to the treatment of young offenders in DSW custody and, again, institutional racism.

Despite the submissions of ACORD to the Select Committee prior to the introduction of the Act, concerns persisted in regard to institutional racism, with high percentages of Maori and Pacific Island children and young persons continuing to feature among those in institutional care. The efficacy of institutional care was also brought into question in the light of high rates of recidivism upon release (Cheyne *et al*, 1997, p.198). In a paper

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<sup>4</sup> These concerns were mirrored in the report of the Economic Subcommittee at the Bill of Rights for Children conference, which criticised the Department's failure to comply with the Act's directive to undertake preventive measures, a failure attributable to a lack of funding and exacerbated by a scarcity of trained staff (Report of the Steering Committee on a Bill of Rights for Children, 1976, pp. 16-17).



presented at a social policy symposium in November 1979, the concerns raised by ACORD prior to the introduction of the Act, some five years earlier, were reiterated in uncompromising terms, alleging that “nothing has changed” (Anich, 1979, p.37). Far from improving the lot of young offenders, the practices under the new legislation were seen as perpetuating the process of “creating criminals” in exactly the same manner, though in greater numbers, as had been the case prior to the Act, (Anich, 1979, p.37). There were clear parallels with the Children and Young Persons Act 1969 in Britain, which also aimed to treat offenders without recourse to the courts or secure care placements (that is, to treat them as in need of care and protection). In Britain, too, the opposite occurred, resulting in even more children and young persons in borstal and detention centres (Packman, 1979, p.17).

In 1978, ACORD undertook its own inquiry into conditions in Auckland Social Welfare homes and was instrumental in prompting a further inquiry by the newly established Human Rights Commission. The allegations fostered intense public interest and the inquiries allowed former residents of the Department’s homes an opportunity to relate their experiences.<sup>5</sup> Both ACORD and the Human Rights Commission confirmed that prevailing practices were cause for serious concern, prompting Social Welfare Minister, Venn Young, to appoint former Anglican Archbishop, Allen Johnston, to report on practices in the Auckland institutions. Department staff regarded the reports of ACORD and the Human Rights Commission (whose report was considerably less intemperate than ACORD’s), as unfair representations of conditions and practices and as failing to take account of the difficult conditions they faced in terms of overcrowding and under-resourcing. There is certainly need to acknowledge these aspects, though there is an air of inevitability surrounding the Department’s defensive response. Indeed, ACORD’s allegations regarding the Department’s defensiveness to criticisms some five years previous, were reiterated in the Commission’s suggestion that the Department needed to open its “shutters to criticism” (Dalley, 1998, p.302).

ACORD’s complaints and the Commission’s findings, along with the Johnston Report (though this was distinctly less critical, in part because it was undertaken after some of the problems had been rectified) confirmed that the residential homes’ practices did not comply with the intent of the legislation and constituted “serious breaches of conduct”

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<sup>5</sup> See Dalley, 1998, pp.299-305, for further detail on the allegations and inquiries.

(Dalley, 1998, p.303), suggesting that, once again, the welfare of the child was paramount in law, but not in practice. Furthermore, while decrying the treatment and conditions of children and young persons who came to notice through (alleged) offending, Anich points out that it was often the case that many of the 500 or so children and young persons per year who were held in Social Welfare custody under section 27 of the Act (indicating a need for care, protection or control) generally received the same treatment as those children and young persons on remand pending trial, or those sentenced by the Court to the care of the Department of Social Welfare. That is, children and young persons who were the victims of abuse or neglect were subjected to the same privations, processes and degradations as offenders.<sup>6</sup> Given the philosophy and principles underpinning the legislation, practices were clearly not consistent with its intent. The interests of children and young persons continued to be subsumed and the power of the professionals remained problematic.

### ***Amendments - the principle in favour of the family group***

Despite the problems outlined above, the ethos of the Act began to permeate the institutions and organisations charged with its implementation and, as it did so, social work practitioners also advocated change, calling for an emphasis on work with families, community development and culturally appropriate processes (Renouf *et al*, 1989, para.9). Amendments attempting to address some of these concerns occurred in 1977, 1982 and 1983. The 1977 and 1982 amendments “focused more on children who had committed offences, and procedural improvements associated with greater appreciation of children’s rights” (Renouf *et al*, 1989, para.4). The 1983 amendment focused on care and protection issues and “introduced the principle in favour of the family group (s4[a]), the principles of normalisation, localisation, voluntariness and participation (s4[b]), special provisions in respect of children or young persons alleged to be neglected or ill treated (s29[a]), search without warrant (s49[a]) and secure care and discipline (Renouf *et al*, 1989, para.4). The principles enunciated in this Amendment are regarded as a significant development in New Zealand’s child protection legislation (O’Reilly, 1984, p.22) and have survived in substance, if not form, in the later legislation. Within this amendment there is evidence of a clear legislative commitment to children’s rights, cultural sensitivity and the family group, and recognition of the psychological impacts of intervention.

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<sup>6</sup> Additionally, remand statistics for 1975 showed that children were more likely to suffer loss of liberty (2.6% to prison and 10.5% to Social Welfare custody) than were adults, of whom only 6.4% were remanded in custody (Anich, 1979, p.42).

Recognition of the family group, however, should not be interpreted as family empowerment. The principle refers to the superiority of a family-like setting as opposed to institutional care and this concept is developed further in s4(a).

Section 4(a) recognises the child or young person's right to live in the association of a family group, and requires due consideration of the extent to which "the probable harm that removal would cause ... would be exceeded by the probable harm that would be caused ... if the child or young person were to continue to live in the association of that family group" (O'Reilly, 1984, p.23). The second subsection of Section 4(a) encompasses four principles to be applied when the child or young person is not living in association with a family group. The first of these, normalisation, recognises the right of the child or young person to live a life that "is normal for a child ... of that age and cultural background", while the second, localisation, stipulates an entitlement to "live in familiar places, among familiar social institutions, and with familiar people, in a locality that the child or young person knows". The principle of voluntariness (s4[c]) prescribes the right (having regard for the level of understanding of the child or young person) to make decisions concerning his/her circumstances, free from "unreasonable persuasion and unreasonable force". In a variation on this principle, the final principle (s4[d]) allows for participation by the child or young person in decisions affecting the child or young person and the life of the child or young person, again having regard to the maturity of the child or young person. These latter two principles gave legislative force to increasingly strident calls, both locally and internationally, that children and young persons have a right to be heard, to be consulted as to their views and wishes.

The inclusion of these four principles reflects growing awareness of both the psychological impact of dislocation (s4[a] and [b]) and the view of children and young persons as independent possessors of rights (s4[c] and [d]). All four also affect the third set of principles instituted in the Amendment - those in respect of a child or young person in the guardianship or custody of the Director-General of Social Welfare. The original Act (1974) gave little flexibility to the Court in cases where more intrusive intervention was required - placing the child or young person in the guardianship of the Director-General was the only real option. This effectively disempowered parents and families, and limited their ability to work out solutions to the problems of those *at risk*. The DSW acknowledged that state guardianship seldom facilitated return to the family or establishment of a new family situation for the child or young person, and the 1983 Amendment eased this a little through the principles of localisation and normalisation,

but not in cases where more intrusive intervention was required (Renouf *et al*, 1989, para.39).

In such cases, all the principles of Section 4 (b) could be over-ridden if the Director-General was satisfied that: the child or young person needed to be removed to avoid harm, the immaturity of the child or young person made the application of the principles inappropriate, the treatment for mental or psychological conditions was not possible in a facility that complied with the principles, the modification of unacceptable behaviour of the child or young person would not be achieved if the principles were applied, or if educational needs could not be met in the local area (O'Reilly, 1984, p.25). Placement in the custody of the Director-General therefore enabled vastly different treatment of children and young persons (including forfeiture of participation rights) on a variety of grounds, though in stipulating the grounds on which the principles in section 4 (b) could be over-ridden, the Amendment effectively precluded extraneous considerations - such as overcrowding of the Department's residential institutions - being instrumental in placement decisions. It failed, however, to address problems within the institutions themselves and to consider alternatives to Social Welfare custody.

### ***Family empowerment and the New Right***

The theme of change that McDonald noted in previous periods persisted into the 1990s. In 1986, a major review of New Zealand's social policy was instigated with the establishment of the Royal Commission on Social Policy whose brief included having regard to "a commitment to the country's children and regard for the future generations of this country" (McDonald, 1988, p.407). Though the Children and Young Persons Act 1974 was itself under review at this time, the 1980s and 1990s constitute a period of major change in many spheres of New Zealand life and the changing philosophies within the welfare arena need to be examined in the context of these other changes.

While increased state intervention in the economy and rising inflation can be said to characterise the 1970s, the mid-1980s saw a reversal of these trends. Monetarist economic policies, a reduced state and user pays philosophy heralded the ascent of the New Right. Paradoxically the first moves in this direction came with the election of a Labour government under the leadership of David Lange in 1984. The social objectives usually associated with a Labour government were deferred in favour of dramatic economic change seen to be necessary to retrieve the country from "the brink of collapse" following years of intervention in the economy by the previous Muldoon

government (Cheyne *et al*, 1997, p.41). Initially the neo-liberal economic reforms instituted by then Minister of Finance, Roger Douglas, were countenanced as the means by which social objectives could eventually be delivered. Though remaining socially liberal, the Labour government was economically neo-liberal, asserting that “traditional Labour objectives could be better achieved in a free market than through state provision” (Cheyne *et al* 1997, p.42).

The advice of Treasury (Treasury, 1984) provided the basis for what were to become far-reaching economic reforms, beginning with deregulation of the money markets, removal of agricultural subsidies and extensive loosening of import/export controls. The market philosophy was extended to government departments. With the aim of making government responsive to the market, the state sector was restructured according to its various commercial, policy-making and service-delivery functions. Restructuring was predicated on the grounds of economic rationality and efficiency, with departments required to generate revenue and adopt a customer orientation. Those departments with a commercial function were corporatised (becoming State Owned Enterprises) and many were later privatised. Inevitably, these changes resulted in large employment losses - particularly in railways and telecommunications.

These employment losses added to the burgeoning welfare costs associated with an aging population and increasing numbers of single parents. The continuing affordability of the welfare state was questioned both on pragmatic grounds, and on philosophical grounds reflecting the user pays, individual responsibility ethos of the New Right. While this new ethos had found practical expression in the switch to a less regulated market economy, restructuring of the state sector, privatisation of state assets and rationalisation in the private sector, there remained an asymmetry between Labour’s economic objectives and its social objectives. The recommendations of the 1988 Report of the Royal Commission on Social Policy were not enacted, with the thrust of reports such as the Gibbs Report on health and the Picot Report on education eventually being adopted. These reports, informed largely by key business people subscribing to neo-liberal views, “argued that responsiveness to community needs could be achieved only by placing the delivery on more commercial and competitive lines” (Cheyne *et al*, 1997, p.43). With both its social and economic policies now having shifted demonstrably to the right<sup>7</sup>, traditional Labour

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<sup>7</sup> This is not intended to suggest a total forfeiture of the traditional Labour platform. Pay equity was among the reforms instituted by this government.

voter support dissipated significantly and the 1990 election installed a National government.

Between 1984 and 1989 the numbers of unemployed rose from 56,000 to 153,000, with a disproportionate number of Maori featuring in the statistics. While this was a problem in itself and a significant burden on state expenditure, it also exacerbated a “significant widening of income inequality and an increase in the level of poverty” (Cheyne *et al*, 1997, p.202), both of which have significant implications for families and communities asked to take increasing responsibility for their own needs. The National government, however, was not constrained by the unease with which Labour had viewed the economic reforms’ effects on social objectives, and readily took Treasury’s advice to cut government spending on welfare, announcing significant benefit cuts in December 1990 which came into effect in April 1991. The displacement of notions of collective (state) responsibility by that of individual or community responsibility was further reflected in the Employment Contracts Act in 1991 and in the aims of the Budget of that same year wherein the practical objective of reducing government spending was augmented with the objective of decreasing dependency on the state through changes which reflected an ideologically driven restructuring of the welfare state. Both the rhetoric and its practical expression in the transformations that occurred reinforced the decline of collective responsibility via the state and the ascent of local and individual responsibility.

Changes in the delivery of social services were also significant. Though not withdrawing from funding welfare services, the state withdrew significantly from the direct provision of such services, instead adopting a competitive tendering process for the provision of these services. Most notably, this represented a shift from the funding of organisations *per se*, to the funding of specific objectives - a specified number of bed nights, for instance - and a commitment to deinstitutionalisation. Furthermore, funding was to be constrained by the requirements of the State Sector Act 1988, stressing managerialism, and the Public Finance Act 1989, which ties funding to previously agreed outputs. Services under the Children, Young Persons and Their Families Act then, would be subordinate to economic goals and “would be determined by the availability of resources, not by the needs of children and their families” (Cheyne *et al*, 1997, p.211). While resources may be regarded as a perennial problem in the welfare arena, the thrust of the new era sought to devolve responsibility back to families and local communities, and is characterised by an unwillingness (premised on the new ethos) rather than an inability to increase funding. This is not to say that increased funding was considered affordable.

Indeed the burgeoning cost of welfare was cited among the reasons driving the changes. The country had entered a period of budget surpluses, however, and in that light, increased welfare spending was an option. The unwillingness noted above is evidenced in the higher priority accorded to debt repayment, as opposed to increases in social spending.

The decreasing ability (in terms of resources) of families and local communities to meet the growing responsibilities expected of them, and the concomitant depletion of resources provided by the state combine to provide substantive evidence of the philosophical shift that had occurred in that, even in years of substantial Budget surpluses, there has been no attempt to redress the earlier benefit cuts or significantly increase the welfare vote in real terms. Indeed, while dramatic economic reforms have abated somewhat with the advent of MMP, the ethos of the neo-liberals remains evident in the 1996 tax reforms (which did not benefit those in receipt of income support payments, further widening income disparity) and in the thrust of the 1998 Code of Social Responsibility<sup>8</sup> survey booklet. This new ethos is one in which previously acknowledged social causes of individual problems are at best discounted, at worst, denied. This then, is the ideological context in which the 1974 legislation was ultimately reviewed and the 1989 legislation was implemented. Clearly, the characterisation of change that McDonald ascribes to earlier periods - whether the upheaval resulted from wars, epidemics and economic depression, or the advent of youth culture, the counselling model and legislative changes in the post-war period - now reached new heights.

### ***Culture, education and health***

Although change is characteristic of the period, some elements remained constant - in form if not in content. Irrespective of changes in legislation, policy and practice, youth culture and moral panics continued their tandem journey through these later decades. The gang membership concerns that emerged with the bodgies in the 1950s simmered throughout the 1960s and erupted once more in 1970, precipitated by a television documentary on the problem. A subsequent report in October of that year noted high rates of gang membership by Maori and Pacific Island youth, and gang activity remained in the public spotlight throughout the decade. Solvent abuse was added to the longer-

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<sup>8</sup> A copy of the Code was distributed to every household in the country, ostensibly as a discussion booklet and a means of gauging public opinion on social responsibility. Widely criticised on methodological grounds as a survey instrument, the Code was also criticised for its underlying ideology and its focus on parents and beneficiaries.

standing problems of drug and alcohol abuse by youth, and along with this came an increased incidence of petty crime and the emergence of the street kid problem (Dalley, 1998, p.273). First investigated in 1981, an inquiry in 1984, based on a survey of social workers, prompted a barrage of negative publicity over the street kid problem in the mid-1980s, along with much criticism of the parents of street kids. Though concern persisted into the 1990s, fuelled by frequent media accounts, the panic gradually abated, just as it had with the Hutt Valley sex scandals, the bodgies, and, in the years since, with alarms over pinball arcades, the hippie era, various genres of popular music - rock, punk, rap - and their associated attitudes and lifestyles, video parlours, television and cinema violence and the Internet. Though many of these concerns continue to attract debate and publicity, the intensity of the concern has dissipated considerably.<sup>9</sup>

While on the one hand efforts to improve child welfare and children's rights often served to undermine the status of parents (however unintended this consequence might have been), there were on the other hand a number of policy developments in other areas that appeared to enhance parental autonomy. In education, the introduction of "Tomorrow's Schools" and the establishment of Boards of Trustees - composed of parent, teacher and community representatives - were touted as a means of returning an element of parental autonomy in education. While the changes fitted comfortably with the new philosophy of rolling back the state and empowering local communities, there was in their introduction yet another implied attack on parental performance, for within promoting the notion of greater parental involvement in education lay the suggestion that their performance in this respect to date was less than adequate, that parents had abrogated their responsibilities, expecting too great a portion of these to be met by the state.

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<sup>9</sup> There is reason to argue however, that the street kid problem varies in significant ways from previous causes of moral panics. Though the rejection of authority is a hallmark of many youth activities, there would seem to be a vast chasm between subscription to a particular musical cult or manner of dress, and living on the streets, removed from adult care, supervision and support. The problem is not only *associated* with substance abuse, but *compounded* by it. That is, the youths' own capacities to contend with life on the streets are inevitably compromised by the substance abuse. There is a sense in which the theory of moral panics, their recognition and the adoption of the term into common parlance has resulted in a tendency to downplay the seriousness of the cause of the latest moral panic, secure in the knowledge that this too will pass. Consequently, concern over yet another trend in youth culture can be minimised by the assumption that it is just another fad and little consideration is given to the truth of this assumption, nor the causes and consequences of this particular fad if the assumption is incorrect. None the less, by the early 1990s social workers reported that the incidence of both substance abuse and living rough were on the decline, and regarded both problems as care and protection, rather than youth justice, matters. Though the Department instituted programmes to assist street kids in the 1970s and 1980s, and encouraged local communities to develop their own programmes, the initial recognition of gangs, solvent abuse and living rough as "signs of deep-seated social problems" (Dalley, 1998, p.271) has tended to fade along with the moral panic.



Paradoxically, while the skills of parents as parents had been questioned now for many decades, the skills of parents as educational administrators were assumed, once again with little consideration of the adequacy of the resources of families and local communities. Furthermore, the fragmentation of the education administrative system and devolution of tasks to the local level has rendered the state - and its responsibilities - hard to define in this arena (Meade *et al*, 1994, p.137).

Parental performance was also brought to public attention through changes in school curricula. Education is not confined to acquiring skills in reading, writing and arithmetic. While extending the range of subjects taught has in some cases been a response to changing academic or workplace expectations, at other times the introduction of specific programmes is based on a perceived failure of other sources (usually parents) to provide the information or skills imparted by the programme. Most obvious among these is sex education. Other courses provide instruction in personal development or life skills. Many areas once considered the domain of parents are now a standard part of school curricula, the inference being that parents are failing to provide tuition in the relevant area. This is not to suggest that these programmes should not be offered, but merely to note a further instance of the silent, unconsidered undermining of the *mana* of parents that accompanies well-intended responses to the shortcomings of some parents.

In providing these courses, the schools are assuming responsibilities once assigned to the parental role and in doing so, may be seen to be relieving parents of such responsibility to an extent. At a fiscal level however, parents are attracting greater responsibility. School fees (officially classified as donations) have steadily risen and changes in benefit entitlements in January 1998 raised the minimum age for a number of benefits - unemployment, domestic purposes, and training benefits - from sixteen to eighteen years on the grounds that supporting those members of society should be the family's responsibility. Additionally, the school leaving age has been raised from fifteen to sixteen years (with intentions possibly to raise it further still), and changes in tertiary funding have resulted in parents being financially responsible for tertiary students up to twenty-five years of age, by linking entitlement to a Student Allowance to parental income. Thus while parents' ability to fulfil their responsibilities to their children in social matters is officially suspect, their ability to fulfil their fiscal responsibilities is assumed.

That other cornerstone of the welfare state, health, has also undergone radical review and restructuring in the last two decades. Despite the general acceptance that personal health is often a matter over which the individual does not have full control, the allocation of

responsibility for health care has been a long-standing and global source of debate. Mid-twentieth century New Zealand was characterised by an unequivocal acceptance of state responsibility for health. The universal provision intended in the 1938 social security package however, was eroded initially as much by technological advances as by ideological shifts. New technology and pharmaceuticals usually entailed spiralling costs, and the affordability of universal provision was questioned long before the shift to the New Right. Problems were acknowledged as early as the 1960s and attempts were made to review health expenditure and the structure of the health system in the early 1970s (Cheyne *et al*, 1997, p.223). It was not until the 1980s however, that the debate over allocation of responsibility resurfaced in significant measure. In keeping with the philosophy of individual responsibility, the existing health system was criticised as not providing sufficient incentive for individuals to assume responsibility for their own health. That is, free and universal entitlement to secondary health care did little to encourage individuals to adjust their lifestyles in terms of diet, exercise, accident prevention, tobacco and alcohol consumption. The increased expenditure on health was not reflected in an improvement in the nation's general health status, and the structure of the system itself was seen as incompatible with the imperative of greater economic efficiency (Cheyne *et al*, 1997, p.224).

Two major investigations instigated by the Labour government in the mid-1980s, one on primary health care, the other on secondary health care, reflect the changing political ideology of the period. The former recommended cost-containment be achieved by tighter contractual arrangements with general practitioners, while the latter - the Gibbs Report - ascribed the bulk of the problems to poor management and recommended a funder/provider split wherein the state continued to fund health care and provision of health care services (from either public or private providers) would rest on a competitive tendering process. Both reports demonstrate an emphasis on the market and contractual relationships that typifies the shift to the New Right.<sup>10</sup> As had occurred in child welfare, disaffection with institutional care and the professionalisation of health care resulted in sustained pressure for increased community care and consultation.

With the election of a National government in 1990 the reform of the health sector gained momentum. A Health Services Taskforce set up the same year reported to then

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<sup>10</sup> Though the recommendations were not adopted by the Labour government, a restructuring of the Department of Health did ensue, with the Department essentially becoming a policy unit and service provision devolved to newly formed Area Health Boards, the members of which were elected by the local community.

Minister of Health, Simon Upton, and further taskforces and consultants were engaged following the 1991 Budget. The funder/provider split favoured by the Gibbs Report was instituted and a managed market for health services was established. In an attempt to develop consensus on health services, the National Advisory Committee on Core Health Services was established in 1992 with a requirement that it consult with the public and professionals about the services provided, their distribution and which services should be purchased in the future (Cheyne *et al*, 1997, pp.228-9). By 1994 the Committee reported that the task of developing a list of core services was “not an appropriate way to describe people’s eligibility or access to publicly funded disability support and health services. Such an approach does not have the capacity to tailor services to the needs of individuals and communities” (Cheyne *et al*, 1997, p.229). Consultation then became restricted to conferences with “invited groups of professionals” (ibid, p.230), effectively ending public input and the empowerment of local communities. The abolition of locally elected Area Health Boards and their replacement with Ministerially appointed Regional Health Authorities also diminished empowerment objectives, as did the scrapping of the Public Health Commission, charged with responsibility for “non-clinical” areas of health.<sup>11</sup>

The 1991 Budget introduced user part-charges, which applied to GP visits, pharmaceuticals, in-patient and outpatient hospital treatment and some related services, such as x-rays. The level of charges was dependent on family income, with three categories delineated. Low income families were exempt from hospital charges and paid reduced GP and pharmaceutical charges. The income levels which defined a family’s or individual’s category were subject to much criticism, as was the introduction of hospital part charges *per se*. These were eventually abolished for most groups, though the Community Services Card (CSC) scheme<sup>12</sup> and part charges for GP and pharmaceuticals persist. There is evidence of some commitment to very young children in the introduction of free health care for children under six years of age, which resulted from the coalition agreement between the National Party and New Zealand First and survived - unexpectedly for some - the demise of the coalition in late 1998. The cost of primary health care for older children and young persons continued to be connected to parental income however, again assuming adequate parental resources and premised on family, rather than individual entitlement.

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<sup>11</sup> The demise of the Commission has resulted in the absence of an organisation dedicated to the provision of such services as vaccination and education programmes - both with a direct impact on children.

<sup>12</sup> See Cheyne *et al*, 1997, pp.234-5 for an outline of the CSC scheme, particularly Table 10.1.

### *Child welfare and change*

The reforms initiated in 1984, and their philosophical underpinnings, had consequences for child welfare that involved far more than the introduction of a new Act. While the Child Welfare Division had become a part of the Department of Social Welfare in 1972 (joining and becoming the major part of the Social Work Section), the amalgamation was not a happy one, with the social work aspects of the Department being secondary to its income maintenance function (Dalley, 1998, p.262). The restructuring of the Department in the mid-1980s based on the call for responsiveness to client needs and priorities (a customer service approach modelled on the commercial sector), saw the social work function further dissipated. Structural changes within the Department continued in the latter part of the decade and by the early 1990s had become “literally unmanageable” (Dalley, 1998, p.263), though the process of change did not stop with this acknowledgment. Indeed, there were nine restructurings in the nine years from 1989 (Cheyne *et al*, 1997, p.212).

In May 1992 the welfare of children and young persons again became the sole responsibility of a state organisation with the formation of the New Zealand Children and Young Persons Service, as the Department of Social Welfare was restructured into three separate business units. The change was viewed by staff, in the words of the new service’s first Director General, Robin Wilson, as “the only opportunity they’d had in years to do a good job”, an opportunity afforded by the return of a service dedicated specifically to children and young persons, under the umbrella of the Department of Social Welfare (Dalley, 1998, p.263). Operating under the Children, Young Persons and Their Families Act 1989, the Service was initially criticised for omitting “families” from its title. Though attributed to a purely pragmatic cause (it would not fit on the letterhead), the omission none the less reflects a particular emphasis, which further eclipsed the status of parents, despite the thrust of the Act itself. The Service was renamed in 1996, this time incorporating “families” into the new title, and with no mention of problems with the letterhead. In 1998 the decision was taken to integrate CYPFS and the New Zealand Community Funding Agency (NZCFA) with a view to strengthening the preventive work of the agency (DSW Community Newsletter, November 1998, No. 1). The change was effective from 1 January 1999 and the Service was renamed the Children, Young Persons and their Families Agency (CYPFA), though further restructuring in order to create a stand alone department was alluded to at the time. With an emphasis

on the Strengthening Families Strategy<sup>13</sup>, the new, integrated Agency “represent(ed) a welding together of community funding contracting, statutory service delivery, standard setting and monitoring” (DSW Community Newsletter, December 1998, No. 3). In mid-April, 1999, the Minister of Social Services, Work and Income, Roger Sowry, announced the establishment of a stand alone Child, Youth and Whanau Department<sup>14</sup>, effective from 1 October 1999, and again emphasised its preventive function (Ministerial Announcements, 13 April 1999). As a dedicated unit, the Department was no longer attached to the Ministry of Social Policy (formed from the residual functions of the former Department of Social Welfare), which became solely a policy department. Changes in the child welfare sector’s structure were not limited to the administrative sphere.

### ***Residential and foster care***

Despite a significant decline in the numbers appearing before the Court - the new legislation ensuring that only the worst of offenders appeared in court - there was not a concomitant decline in the numbers of young persons requiring secure care. Consequently, although admission to residential care had fallen out of favour following adverse publicity and doubts about its worth in the 1970s and 1980s (resulting in the closure of many homes and the adoption of a last resort policy by the Department of Social Welfare), the need for secure care persisted. Pressure on secure residential facilities was further increased in 1985 with the passage of the Criminal Justice Act. Prior to this Act, fifteen and sixteen year olds were remanded to penal institutions; they were now the responsibility of the Department of Social Welfare, adding to the strain on already overflowing secure facilities. Unlike other western nations, New Zealand tended to combine residential and secure services. That is, there were no separate facilities for young persons requiring secure care, the need instead being met by providing secure areas within residential institutions. The institutions therefore contained those who were in need of care, some of whom were severely traumatised, along with serious offenders whose presence could “affect the tone of the whole institution” (Dalley, 1998, p.293). Problems with this combination, with increasing levels of violence and aggression noted

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<sup>13</sup> “Strengthening Families” is a Government strategy, adopted in 1997, which aims to improve services for at risk families by providing a seamless, co-ordinated package of direct and contracted social services.

<sup>14</sup> At the time of its establishment in October 1999, the name of the new department was changed to the Department of Child, Youth and Family Services, rather than *Whanau*. It is commonly referred to as Child, Youth and Family (CYF).

by social workers since the 1970s, and with overcrowding since the mid-1980s did little to alleviate the increasing tension.

Disaffection with the practice of committing children and young persons to residential care had grown throughout the 1980s and in 1987, as a result of *Puao-te-Ata-Tu* (a report on welfare services for Maori submitted by an advisory committee appointed by the Minister of Social Welfare in 1985), all homes for pre-adolescent children were progressively closed and the remaining homes were restructured with the aim of releasing funds for alternative forms of local and community-based care. From a peak of more than 900 beds in twenty-six institutions in 1979, the Department reduced its capacity by 1990 to just 300 beds in nine institutions (Dalley, 1998, p.314). The new philosophy of maintaining and strengthening the family unit, combined with community-based care and solutions and the development of support systems by which to implement the new philosophy, resulted in an enormous drop in admissions to residential care, such that a review of residential services in 1990 brought about the closure of five more homes and reduced the number of beds nationally to just eighty-three. Both the disaffection with the institutions and the subsequent closures are reminiscent of the fate of the industrial schools early in the century. Like John Beck, Mike Doolan (former head of Kingslea residential institution) saw the demise of the institutions as the end of an era, one to which he was adamant the Department would never return - "We will never go back to that. I'm quite convinced ... (residences) are a thing of the past" (Dalley, 1998, p.320).

Not all Department staff were as enthusiastic about the changes however. There were many job losses, with residential staff halved and the percentage of social workers in the Department's employ falling from 22% in 1984 to 14% in 1992. While morale was low and criticisms were doubtless coloured by this, there were none the less good reasons for concern. Claims that the changes were driven by cost-cutting imperatives reflecting a New Right philosophy, rather than by a genuine concern for child welfare, cannot easily be dismissed. Some resented the prolonged process of change and review and its accompanying uncertainty regarding which homes would close and which jobs would be lost, while others lamented the speed of the changes in that alternatives to residential care were not seen to be operationalised before the closures, and that the funds freed by the closures were not dedicated to the provision of alternative forms of care. Consequently, it was argued that there were insufficient resources, both financial and material, following the closure of the residential institutions. Others maintained that things went too far and

that unsound reasoning precipitated some of the closures, with Auckland Regional Manager at the time, Robin Wilson, stating, “In the time-honoured way we threw the baby out with the bath water, but we were wrong. And we were left with not enough (homes)” (Dalley, 1998, p.316). Wilson’s comments would seem to bear out the suggestion that the changes were fiscally motivated in that closing the residences was a less expensive option than fixing the problems within them.

The adoption of a last resort policy meant that only the most difficult of young persons remained in the custody of the Department. Local communities, therefore, were not enamoured of the changes. Whereas previously homes had accommodated a mix of young people and the worst cases could be spread around a good number of institutions, the reduced capacity and the last resort policy now combined to concentrate serious offenders and seriously disturbed youngsters in a handful of facilities. Though the Department acknowledged the need for more beds, and advocated the development of more, but smaller, local residences, the introduction of the Resource Management Act in 1991 further complicated the matter by requiring the Department obtain resource consents for new or additional facilities. Under the Act local communities are able to block the granting of such consents in the interests of the safety of the local community, resulting in a prolonged and tortuous path for initiatives establishing new facilities (Sowry, 1998, p.8).

The requirement of the Children, Young Persons and Their Families Act 1989 that care and protection residents be kept separate from youth justice residents resulted in the Act’s principle of localisation being compromised by the closures. “The availability of facilities, the need for specialist services, and problems with having rival gangs at one site could all influence a decision to move” (Dalley, 1998, p.318). Despite increasing the number of youth justice beds by 30% in late 1992, the Department acknowledged that its facilities were full and some had waiting lists. Furthermore, the last resort policy adopted by the Department was criticised by the 1992 ministerial review team as imposing on local communities a burden with which they were ill equipped to cope. Maori were particularly affected in this way, with one submission to the review team commenting, “We have some quite dangerous young people in our community, who have been placed back here by the Department, who are wandering around destroying whanau after whanau. And now the Department won’t help us with them. They say they have empowered us!” (Dalley, 1998, p.318).

In June 1996 the National government adopted a new residential services strategy which moved away from large multi-purpose facilities in favour of small, specialist, therapeutic units, intended to separate youth justice from care and protection facilities. A range of management systems were to be utilised, some run by the Department and others contracted out, and youth justice facilities were to be shifted wherever possible to non-residential zones. The strategy envisaged that overall bed numbers would increase by around fifty percent, but this would take several years to come to fruition (Press Release, Minister of Social Welfare, 13 June 1996). As had happened in the past, existing facilities began to be discarded before alternatives were in place. A year after the adoption of the new strategy Labour's welfare spokesperson, Annette King, criticised the sale of fifty-two social welfare family homes - providing around 250 beds - at a time when there was increasing pressure for places for young offenders. While secure care for young offenders was among the priorities of the new strategy, the proposed units - comprising just forty-one beds - were for young sex offenders and children and young persons with severe conduct disorders or needing care and protection (New Zealand Labour Party Press Release, 24 June 1997). In August 1998 approval was granted for the construction of a purpose-built secure youth justice centre in Palmerston North, signalling "the first major step forward to implement the Government's Residential Services Strategy" (Press Release, Minister of Social Welfare, 4 August 1998). The unit was to cater for those on remand, or sentenced to supervision with residence. It was not a youth prison and would not accommodate those convicted of serious crimes. This group was to be catered for in seven youth prisons, the first of which opened in Hawkes Bay in 1999. This unit houses seventeen young persons, and planning is underway for further units in Northland, Auckland, Waikato, Wellington, Christchurch and Dunedin, accommodating 230 inmates in total. With the exception of Auckland, all the units were to be located on the site of a planned or existing prison, though separate from it (Press Release, Minister of Corrections, 16 February 1999). Though the new prisons had been fast-tracked, the remaining six units were expected to be established over a period of three years, the issue of placement of young offenders in the interim remaining a problem.<sup>15</sup>

Clearly the new philosophy resulted in many more young offenders now remaining within the family unit, or at least in the local community. Care and protection cases were

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<sup>15</sup> Secure care and rehabilitation of young sex offenders was alleviated with the opening of a specialised facility in Christchurch in July 1999. The \$4.4m unit, constructed following protracted objections from the local community, is run by Barnardos, under contract to CYF.



similarly disposed. In keeping with the philosophy of family solutions to family problems, the predominance that foster care had enjoyed during the 1970s and 1980s followed a similar path of retrenchment to that of residential care. Although there had been some concern regarding the quality of care at some foster homes and the calibre of some foster parents, the major bone of contention over the years had been rates of payment for fostering. The Department had steadfastly pursued a costs only policy, refusing to allow any pecuniary recognition for the services provided by foster parents. The New Zealand Foster Care Federation, formed in 1976 was instrumental in improving the pay and conditions of foster parents following a review of rates undertaken jointly by the Federation and the Department in 1981, though it was 1986 before all the changes were actioned in full (Dalley, 1998, pp.322-3). Rates of payment were not the Federation's only concern, however.

Until the 1970s there had existed an assumption that those parents who became foster parents were naturally suited to the job. Suggestions of a need for specialised training were generally considered laughable (Dalley, 1998, p.324). Foster parents themselves, however, gradually acknowledged a need for training - a need brought into sharp relief when compared to those foster parents involved with Intensive Foster Care Schemes, set up in 1979 and designed to provide care and support for the most difficult and disturbed cases.<sup>16</sup> While their own lack of training was a source of concern for foster parents, so too was the quality of social work support, social workers' case loads and the inexperience and lack of training of some social workers. Also of concern was the lack of consultation with foster parents, both in terms of information supplied on individual cases and in terms of the development of policies and proposals. A more open relationship with the Department was demanded, along with a call to be considered as "part of the team working for the welfare of fostered children" (Dalley, 1998, p.325).

For its part, the Department acknowledged its sometimes poor treatment of foster parents and its failure to allow them a stake in the decision-making process, though it also noted that the Federation and some foster parents could be difficult to approach. In 1984, the Statement of Policy on Family Home Operations brought about a substantial improvement in the relationship between foster parents and the Department, formally acknowledging the former as colleagues and partners who "had important things to say

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<sup>16</sup> The recruitment, selection and training of foster parents involved in this scheme was considerably more rigorous than that of ordinary foster parents, as was the ongoing guidance and support provided by specially-designated social workers.

about the children in their care, and ... (who) should be consulted in any decisions over their future” (Dalley, 1998, p.327). By the end of the decade the relationship was such that Department officials sought foster parent input not only for matters of the daily care of individual cases, but also for the evolving disposition of foster care within the welfare system. Clearly the existence of a national organisation for foster parents served to strengthen their position and facilitated serious consideration of their views and position at the policy level. There is no similar organisation to speak for the parents of *at risk* children and young persons at this level.

### ***The shift to family solutions***

While the changes outlined above advanced the position of foster parents considerably, the growing emphasis on children’s rights, commitment to the paramountcy principle, and the growing aversion to severing the links with birth families served to operate in the opposite direction. Problems with multiple placements were highlighted in a 1981 study which revealed that children and young persons who were placed into foster care during the five years of the study had an average of 6.5 placements each (Mackay in Dalley, 1998, p.328). Though cognisant of the dangers highlighted by the Colwell case<sup>17</sup> in the early 1970s, the Department was committed to addressing the problem of multiple placements and espoused the view that in most cases this was most likely to be achieved through placement with the birth family. Furthermore, the growing awareness of child abuse and neglect that had emerged during the 1970s now began to be extended to forms of care outside the birth family. The Department gradually began to recognise the potential for abuse in foster homes, with a study in the mid-1980s revealing that of the 71% of young women (N=136) in the Department’s care who had suffered sexual abuse, about half had suffered the abuse following committal to the Department’s care (Dalley, 1998, p.332). Other forms of neglect and abuse were also noted, further undermining faith in the foster care system. By the mid-1980s the Department had implemented a policy of better planning to ensure a greater sense of permanence in placements and aimed at assuring children and young persons of stability, continuity and a sense of belonging as of right.

It is worth noting that these changes in policy and practice, reflecting the new philosophy of maintaining the child within the family network and premised on the

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<sup>17</sup> Maria Colwell had died at the hands of her stepfather, after being returned to the family, despite her protestations and the availability of a continuation in her alternative (and happy) care arrangements (Howells, 1974).

principle of the best interests of the child, affected all areas of child welfare. Hence, the Department's practices in the area of adoption services changed in accordance. With the focus now on finding parents for children, rather than children for parents, and with a much reduced number of babies available for adoption as a result of greater social acceptance and financial support for single parenthood, the Department now expended considerable effort in finding homes for special needs children, a long-neglected area. Open adoptions became more prevalent and the passage of the Adult Adoption Information Act in 1985 allowed parties to earlier adoptions to access information about their birth parents. Though the information could be subject to a veto by the birth mother, for the most part the new policies and practices reflect the paramountcy of the child's interests as was the intent of the new child welfare ethos. The vastly reduced caseloads and the placement of special needs children with adoptive families also served to reduce the state's involvement in adoption services and its responsibility for institutional care of special needs cases, furthering the New Right's commitment to a minimal state.

By 1989 and the introduction of the Children, Young Persons and Their Families Act, notions of long-term foster care were at odds with the new ideology, which espoused finding solutions within the network of the natural family. Though remaining a part of the system of ensuring child welfare, foster care was to have a much reduced role, with emphasis in the new legislation favouring retaining the child within the family network. The Department's network of purpose-built family homes was also affected. Closures reduced the number of homes from 150 in the early 1980s to ninety by 1992 (Dalley, 1998, p.336) as in-family solutions reduced the demand for places in the homes, no doubt influenced by their status as the penultimate course of action for children and young persons requiring care (residential care being the last option on the continuum). In the new environment the homes took on a number of new functions - providing a neutral venue for holding Family Group Conferences and in some cases providing services for whole families needing assistance in developing parenting, budgeting or housekeeping skills, though the practice appears not to be widespread. As with the reductions in bed numbers in residential facilities, the reductions undertaken in the provision of family homes was also not without its opponents, and are equally susceptible to charges that the changes reflect fiscal considerations reflective of the New Right, albeit coincidental to serendipitous changes in child welfare policy.

It is contended that the philosophical shift that resulted in the policy of finding in-family solutions is not equivalent to empowering families at either the general or the specific level. At the general level policies advocating individual responsibility require complementary policies ensuring individuals have the resources to accommodate that responsibility. Increasing levels of poverty and widening income disparity (Cheyne *et al*, 1997, p.202) suggest that this has not happened. At the specific level changes in the legislation affecting children and young person's welfare have not been enacted with a focus on parental empowerment, other than in the rhetoric. That is, while responsibility for the child or young person is returned to the parents, the move is not concerned with parents' rights or authority, but is made with a focus on the interests and rights of the child or young person. Thus, while the state adopts a surveillance role in the interests of the child or young person, it largely withdraws from the provision of other services and there is no attempt to actively empower parents in undertaking their parental duties.

It is evident that the single most significant decision faced by families whose children are *at risk* has been taken at the state level rather than at the local or family level. Throughout the period under review in this research the state has decided whether or not alternative care will be provided by the public purse, at what level and in what form. Choices available to parents therefore are affected accordingly. The reduction in the provision of foster care, family homes and residential institutions in the last two decades effectively takes the consideration of these types of care away from most parents. It is simply not an option in most cases. If family empowerment is indeed a mainstay of the current philosophy it would seem necessary to allow a full range of options and the resources to meet them. Furthermore, as is arguably the case in health, education and welfare generally, new technology coupled with new philosophies has resulted in a much increased capacity for the state to monitor and control the population while at the same time reducing the services it provides. Sophisticated computer systems, national databases and information sharing between state agencies and departments allow tighter control and wider monitoring, but do little to enhance service provision at the front line.<sup>18</sup> In this sense, intervention by the state is well entrenched while dependence on the state is actively discouraged. The range of expectations considered to constitute dependence on the state continues to expand such that pecuniary dependence is now merely a starting point and expectations of other forms of state assistance (health,

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<sup>18</sup> See Donzelot, 1979.

housing, education, welfare) are increasingly countered by insistence on individual, family and local community provision.

It is worth noting that though both the 1974 and 1989 Acts have been hailed as innovative and representative of change in the approach to child welfare, there is a sense in which this is not the case. In many respects both Acts can be seen as extensions and refinements of existing legislation and practices. Some aspects of the legislation merely formalised existing informal practices. For example, the preventive work already being attempted by Child Welfare Officers was given a legislative basis in the 1974 Act, and gaps in the older legislation, particularly in regard to procedural matters and the status of foster parents, were rectified. In other respects the legislation reflects changes or advances in the existing knowledge regarding child development, both physical and emotional.<sup>19</sup> The legislation also needed to address problems that occurred as a result of developments in other areas, such as the increasing incidence of children left alone in cars outside hotels for long periods following changes in liquor licencing legislation and the increasing acceptance of female patronage in hotels. Again, this type of change can be seen as an extension of existing concern for the physical and emotional well being of the child or young person, rather than as indicative of a new approach to child welfare. It also demonstrates the interaction between the child welfare sector and the context in which it is embedded, with changes in context prompting changes in child welfare legislation.

None the less, there were innovations in the Acts, with the later Act in particular attracting global attention as “the most advanced bit of social legislation of its time in the world” (Wilson in Dalley, 1998, p.264). While the 1974 Act emphasised community and parental responsibility, the 1989 Act was promoted as empowering families and communities through the mechanisms of the Family Group Conferences (FGC) and community-based schemes. Whether truly empowered by the Act or not, the Act unarguably “asserted the primacy of families, whanau and family groups in having and taking responsibility for the welfare of their members” and relegated social workers to the role of facilitators or co-ordinators (Dalley, 1998, p.265). There is nothing inherent in having or taking responsibility, however, that automatically bestows power. Although recognising the intricate and binding relationships between parents and children, the Act

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<sup>19</sup> This is evident in the delineation of children and young persons and the raising of the age of criminal responsibility to 14 years.

emphasises children's rights and makes their interests paramount, casting some doubt on the much vaunted empowerment of families and communities.

Perhaps most of all, the 1989 Act has been applauded for its attention to cultural appropriateness. The introduction of family-based decision making and problem solving can in large part be attributed to the consideration afforded to this aspect. In addition to the consideration of institutional racism prompted by ACORD and the Women's Anti-Racist Action Group (WARAG), consideration of multiple aspects of colonisation and subsequent Maori dependency was engendered by the report, *Puao-te-Ata-Tu*, on welfare services for Maori. The new vision developed by the Report encouraged greater accountability on the part of state agencies and greater community involvement in the work and decision-making of the Department.<sup>20</sup>

It is clear that there are two levels of change to be considered here, both of which influenced the adoption of the mechanisms and practices that eventuated. While at one level much of the detail of the new legislation reflects changes in knowledge or thinking as to the optimal disposition of youth justice or care and protection cases (the principles of localisation, normalisation, voluntariness and participation, for instance), at a more general level the changes reflect the New Right ideology and its emphasis on a minimal state. Devolving as much of child welfare as possible back to the community and families facilitated the rolling back of the state to the extent that it was no longer involved in the provision of many of the relevant social services, instead insisting that community and iwi-based groups fulfil this function. Other factors also served to reduce the role of the state, though the state's actions in regard to these factors is typically represented as responsiveness to concerns, rather than as one of fiscal expediency or an opportunity to further minimise the state's role. For instance, there had developed a crescendo of opposition to, and discontent with the paternalistic and authoritarian interventions of social workers, particularly in the residential homes. There was a continuing assumption that staff knew best - "... parents' rights were negligible - what we said went" (Wilson in Dalley, 1998, p.305). In theory at least, the new legislation sought to remedy this and, as previously noted, social workers were now akin to facilitators. In practice, it is unreasonable to expect that the practices and attitudes of many decades' standing would be obliterated overnight.

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<sup>20</sup> Though not notable for their longevity, being disbanded in 1991, the various committees set up to implement this vision (Social Welfare Commission, Local District Executive Committees and Residential Management Committees) represented an attempt to "deprofessionalise" the administration of welfare (Dalley, 1998, p.267).

## *Conclusion*

The two decades following the point at which McDonald's analysis ends exhibit changes in legislation and ideology which rival the nature and extent of those in previous periods. While child welfare legislation can be viewed as undergoing major reform during this period, there is a strong sense in which the 1989 legislation built on the ethos introduced in the 1974 Act. A comparison of the detail of the two Acts is undertaken in the following chapter, in addition to an analysis of the detail of the current Act. Although the reform of the legislation was initially prompted by problems in the substance and operationalisation of the 1974 Act, the eventual formulation of the 1989 Act reflects the influence of the developing neo-liberal ideology which underpinned the context in which the reform process took place and the new legislation was introduced.

Reforms throughout the state sector emphasised a market philosophy and devolution of responsibility to individuals and local communities. The increasing encroachment of the state into the family domain that is evident in previous periods therefore appears to be redressed to some extent by the new ideology. While the new Act fits with the twin objectives of the rolling back of the state and acceptance of individual responsibility, the intended empowerment of parents denoted in the Act is undermined by the failure to implement processes and structures by which parents and local communities can be assisted in meeting these responsibilities. Changes in education and health – also touted as returning choice and power to families and communities – impose further burdens on the capacities of families to meet their responsibilities. At the same time, reductions in alternative care facilities added to the burdens imposed on local communities and restricted the options available to families in crisis. Family empowerment was not at all assured by these developments, and further threats to parental *mana*, which emanate from the current social context are discussed in chapter nine.

## CHAPTER FIVE

### Current Legislation, its Formulation and Substance

The previous chapter examined the detail of the 1974 legislation and changes in the child welfare sector, placing these within the changing political and ideological context that followed the election of a Labour government in 1984. This chapter traces the political process by which the new legislation was formulated, following a “protracted and tortuous process of review and reform” (Renouf *et al*, 1989, para.42). Much of the contention surrounding the proposed legislation centred on the relative power of the professionals, with proposals for the establishment of multidisciplinary teams viewed by social work practitioners as compromising their position and blurring the lines of accountability. Concern was also expressed in regard to the monocultural nature of the proposed legislation. Submissions from Maori communities demanded the return of *mana* to *whānau* and the cessation of practices that served to alienate children from their families, with similar demands voiced in submissions from Pacific Island communities. The path to reform is also notable for its exposition of the diversity and complexity of opinion regarding optimal child welfare and child rearing practices.

The chapter then examines the detail of the current legislation, the Children, Young Persons and Their Families Act 1989. This is undertaken from a parental perspective, informed by an understanding of the historical erosion of parental *mana*, which pervades the current climate in which parents, children and professionals operate. Included in this is a comparison of salient features of the current Act with its legislative predecessor, noting, in particular, deletions and additions in the respective definitions of children and young persons deemed to be in need of care, protection and control. The detail of the new Act is analysed in order to ascertain the extent to which it supports the Act’s stated principles and objectives, particularly those concerning family empowerment and support. Contrasting the detail of the Act with its stated principles and objects tests the internal consistency of the Act.

The analysis isolates aspects of the legislation which, under certain circumstances, work to the detriment of family and community empowerment. These are related particularly to the adequacy of funding under the Act. Problems are also noted in regard to the interpretation of the Act. While funding is again implicated in that resource constraints will foster rationing, which can exclude families who clearly fall with the parameters of the Act, other factors are also relevant. In attempting to allow for a broad range of



circumstances and possibilities, the legislation allows the possibility of adverse interpretation and subsequent action in regard to parents. For example, the inclusion of emotional wellbeing in the legislation attempts to cover those cases where the abuse that occurs leaves no visible scars, but which can be as damaging as other sorts of abuse. The absence of visible evidence poses problems in determining whether or not abuse has occurred. Negative general perceptions of parents will engender specific actions and outcomes that vary considerably from those that would ensue from a positive view of parents. The analysis should not be construed as a wholesale rejection of the legislation - indeed the greater part of this large and detailed Act is deserving of the international acclaim it has received.

### ***The protracted path to reform***

In proposing a major review of the Children and Young Persons Act 1974 in 1984, then Minister of Social Welfare, Venn Young, acknowledged that “in most years there are some minor amendments to the Act” (NZ Committee for Children, 1984, p.2). Some amendments, as shown in the previous chapter, were not minor and work on redrafting the legislation had begun as early as 1982, when Dr David Geddis and Pauline Tapp convened regional seminars, resulting in draft child protection legislation. Tapp and Geddis’s draft child welfare legislation was presented in May 1983 during a national conference on child care and the rights of children, convened by Venn Young. Substantial changes were made to the draft and it would have become law, but for the change of Government in the 1984 election (Renouf *et al*, 1989, para.12). The election of a Labour Government in 1984 had widespread ramifications in the policy arena. Along with the growing awareness of child abuse, and the possibility of an alternative model<sup>1</sup> for solving youth justice issues in resolving family problems, the economic and state sector reforms introduced by the new Government created a new policy environment with an emphasis on accountability, individual and family responsibility and a reduced state. Furthermore, the re-emergence, by the mid-1980s, of Maori as a political force, prompted consideration of the rights of the *tangata whenua*. The new Minister, Ann Hercus established a departmental working party assisted by Pauline Tapp) to review all of the 1974 legislation. The Working Party’s publication, *The Red Book* (a public discussion paper) drew more than 400 submissions, but these did not provide a clear

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<sup>1</sup> This model was based on the success of the mediation and conciliation approach of the Family Court, established under the auspices of the Family Law package which reformed New Zealand’s matrimonial laws in 1980.

indication of public opinion on significant issues - testament to the diversity of sentiment and opinion surrounding child care and parenting. The lack of consensus evident in public submissions was replicated amongst the professionals involved.

There was growing disquiet among social work practitioners and managers at the direction the Bill was taking (Renouf *et al*, 1989, para.13). The Bill was introduced in 1986, but engendered considerable opposition, particularly to the executive powers proposed for the multi-disciplinary teams intended to have responsibility for child care and protection, their role and composition and their rigid specifications. It was also proposed that DSW not have a key role in care and protection matters. At the Select Committee stage, over 200 submissions were received, mostly opposed to significant aspects of the Bill. Growing differences emerged regarding the most appropriate child protection measures to incorporate<sup>2</sup> and DSW practitioners were strongly opposed to executive powers being given to multi-disciplinary teams. Allied to this were concerns about accountability if multi-disciplinary teams were to be directing departmental social workers. The various interest groups, however, were in favour of the proposed limitations on police and residential social worker powers.

The strongest criticism of the 1986 Bill was on cultural grounds - especially from ACORD, the Human Rights Commission, the NZ Association of Social Workers and Maori groups - again relating to both the process of drafting the Bill, and the content of the Bill itself. Objections were voiced about the monocultural nature of the Bill, and its procedures were regarded as too complex (Renouf *et al*, 1989, para.13). The content was seen as undermining the “integrity of *whanau*, *hapu* and *iwi* and leaving *whanau*, in particular, in a position of powerlessness and dependency” (Renouf *et al*, 1989, para.28), representing a diminution of parental rights, concomitant with further disempowerment. These problems were not exclusive to Maori families, though it was argued that Maori and Pacific Island families were more severely affected by prevailing practices. The proposed composition of the Child Protection Teams was also criticised, particularly by *Maatua Whangai* workers in Auckland, who saw them as likely to be “dominated by powerful professional groups such as the police, doctors, lawyers and educators who worked for systems whose traditional focus was on individuals and not oriented to family or *whanau*” (Renouf *et al*, 1989, para.34).

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<sup>2</sup> Foremost amongst these was the inclusion of clauses relating to the mandatory reporting of abuse and neglect.

The Bill was still in the Select Committee stage in mid 1987, heavily criticised, and effectively stalled. The youth justice provisions of the Bill, it should be noted, were considerably less contentious and “to some extent youth justice issues were simply overshadowed by the child protection debate” (Renouf *et al*, 1989, para.17). Given the prevailing focus on children and young persons, the capacity of the child protection debate to overshadow a related area - youth justice issues - provides a good indication of the pervasiveness of concerns regarding abuse and neglect. There is nothing to suggest that the dominance of this aspect in the policy formulation process abated during implementation. The subordination of youth offenders in the policy process begs the question in regard to other (non-child) parties in the implementation process.

Following the General Election in 1987, a new Minister, Dr Michael Cullen, was appointed. In September of that year he asked DSW to establish a new Working Party to look at ways to simplify the Bill, make it more culturally sensitive, and use resources for services rather than infrastructure. Though this working party was again composed of DSW staff, it was augmented by one representative from the Ministry of Justice, and its fifteen members included Maori and Pacific Islanders. The Working Party quickly found that the 1986 Bill could not be rectified on a clause by clause basis and proposed a total review be undertaken. After brief consultations with key interest groups, a report was circulated for comment. Over 100 submissions were received. The Working Party proposed to the Select Committee that the report be taken to Maori and Pacific Islanders for comment, resulting in oral submissions being received at local *hui*, a national *hui* at Ruatoke, and Pacific Island *fono* (Renouf *et al*, 1989, para.21). Submissions at these *hui* and *fono* demanded that the new legislation embody the principles of the Treaty of Waitangi, return *mana* to *iwi*, let *whanau/iwi* nurture their own children, stop alienating Maori children from their own *whanau*, and resource and empower *iwi*. Clearly there was great concern among Maori and Pacific Island communities that parental and family rights be reinforced, and that the balance of power between the state and families be adjusted towards the family.

Though the subject of much debate and contention, not all aspects of the Bill were without consensus. There was general acceptance early in the review process of the separation of care and protection from justice matters, and for setting the latter in a justice, rather than a welfare model. In both the written and oral submissions, there was consensus that if the Bill was to work it required “extensive resourcing of preventive programmes” to support children within their family situations (Renouf *et al*, 1989,

para.30). There was ministerial acceptance that the welfare of the child was usually inseparable from the welfare of the family and this was given specific expression in the Act in the imposition on the Director-General of Social Welfare of a duty to “promote the establishment of services and adopt policies aimed at assisting the welfare of children, young persons and their families” (s7 [2]). There was also ministerial support for legislation that “minimised disruptive intervention, maximised support and strengthening of family groups and established culturally appropriate procedures and structures.” (Renouf *et al*, 1989, para.29).

The 1986 Bill’s proposal to set up multi-disciplinary teams was supported in some quarters (most notably by the National Advisory Committee on the Prevention of Child Abuse), but there was continuing strong opposition from DSW social workers and the majority of existing Child Protection Teams. Not only were the proposals considered too rigid, inflexible and time consuming for members, they were viewed as “usurping the functions of the Departmental Social Worker” in that the teams “would operate as virtually independent agencies which would control and direct the work of Departmental Social Workers without having the time, continuity and accountability to make this a practical reality” (Renouf *et al*, 1989, para.33). Significantly, the Officials Working Party and new Minister were wholly convinced by these arguments - especially by the opposition expressed by the Department’s own staff. They proposed instead the establishment of Care and Protection Resource Panels, which undertake an advisory role to those directly involved in the statutory care and protection functions under the Act. Primary responsibility for resolving care and protection issues remained with Department staff.

In a further capitulation from the first Bill, and after a 10-year debate, a proposal for mandatory reporting of child abuse was omitted from the new Act. Submissions to the Select Committee were mixed, with the strongest of objections coming from the NZ Law Society, and the final decision was strongly influenced by data from the Australian state of New South Wales, which has mandatory reporting. The data indicated increased state intervention (up to 6%), but of reported cases of abuse “only 20 percent had been substantiated and required continuing intervention. In more than 50 percent of cases, no abuse was confirmed” (Renouf *et al*, 1989, para.38). In a compromise, the Officials Working Party came to the conclusion that heightened community awareness and responsibility for the problem was of more importance, paving the way for a higher profile for abuse and neglect in the public domain.

The Officials Working Party Report covered 110 submissions made to the Select Committee by - in the main - the same people who submitted on the 1986 Bill. This time, by contrast, there was broad support expressed for the new principles espoused in the Bill, from groups as diverse as the Youth Law Project (YELP), NZ Foster Care Federation, YMCA, Maori Legal Services, Pacifica and the NZ Medical Association. Even greater contrast is evident in the input by Maori and Pacific Islanders, not only in their inclusion in the submission process, but also in the fact that “in dealing with care, protection and offending issues it was widely acknowledged that cultural and racial expertise was a significant resource” (Renouf *et al*, 1989, para.24). Indeed, Maori notions of restorative justice are implicit in the innovation of Family Group Conferences and a Maori understanding of family is reflected in the detail of the Act. The various contrasts and tensions notwithstanding, the redraft was completed by March 1989, taken to Parliament in May 1989, and came into effect on November 1, 1989. The Act is titled the Children, Young Persons and Their Families Act 1989.

The protracted and arduous path of amendments, reviews, revisions and reformulations over a period of some nine years, demonstrates a number of important aspects of both the legislation itself and the legislative process in New Zealand. Of primary concern to this research is the evident multiplicity of opinions in the area of child care, protection and control. While some aspects of the new legislation can be seen as compromises, other decisions appear arbitrary and reflect the accessibility of Ministers in New Zealand and the relative power and influence of particular key figures and interest groups. It is also clear that true contestability of advice is difficult in a small political arena such as New Zealand (Renouf *et al*, 1989, para.47). In this respect, the change of minister in 1987 was crucial in that it broke the old associations, to some extent redressing the disproportionate influence of some key individuals who had membership of various central committees and organisations. The role of policy advisors in DSW was significant in the end, though it was a new group of advisors who comprised the second Officials Working Party in late 1987. Only at the third policy phase did the officials have any real command of the policy agenda. They had previously assumed a number of other roles - as spokespeople for the disadvantaged and less articulate, or for practitioners, as mediators and consensus seekers, rather than as providers of rational, research-based advice to ministers (Renouf *et al*, 1989, para.49). Although it is entirely appropriate that the policy advisors eventually fulfilled this latter function, the consultation process was depleted by forfeiture of their previous roles. It is not

suggested here that these roles were appropriate for policy advisors. The loss of this intermediary voice for the disadvantaged and less articulate is significant, however, since within this role was the potential for parents' voices to be heard.<sup>3</sup> There is no indication that this role was assumed by others within the policy process. Furthermore, the invisibility of parents in the research (as noted in chapter one) upon which advice to the Minister was based acts to further remove parents from consideration within the process.

As a consequence of the constraints of time and fiscal considerations, which hindered the consultation process, both Bills were formulated under considerable pressure. Accordingly, the proposals could be viewed as “reactive (to perceived failures in previous law), derivative (copying legislation in other western countries), pragmatic (practitioner driven) and prescriptive (leaving few opportunities for those who implement the law to subvert its intentions)” (Renouf *et al*, 1989, para.45, emphasis in original). The last of these descriptions is better considered as developing in spite of rather than as a result of the pressures under which the legislation was formulated, and its inclusion is overly optimistic.

### ***The Children, Young Persons and Their Families Act 1989 - Aims, Objects and Principles***

Despite the Working Party's brief to find ways to simplify the proposed legislation, the resulting Act runs to some 250 pages. While the main points of the Act are outlined below, with occasional comment on some features, the intent of the Act - or parts of it - can be undermined in the implementation process. This is addressed in passing, though the extent of any deviations is better understood by reference to the experiences of the families who assisted in this research. The chapters presenting the interview data will therefore refer back to the detail of the Act in order to establish its relevance to the experiences of the families.

The 1989 Act has deservedly attracted much international attention and acclaim. The depth, breadth and holism embodied in the Act are indicated in its long title:

An Act to reform the law relating to children and young persons who are in need of care and protection or who offend against the law and, in particular, -

To advance the wellbeing of families and the wellbeing of children and young persons as members of families, *whanau*, *hapu*, *iwi*, and family groups:

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<sup>3</sup> It is not suggested that parents are inarticulate, merely that access to the policy process is difficult and the demands of parenting often preclude extensive involvement in such matters.

To make provision for families, *whanau*, *hapu*, *imi*, and family groups to receive assistance in caring for their children and young persons:

To make provision for matters relating to children and young persons who are in need of care or protection or who have offended against the law to be resolved, wherever possible, by their own family, *whanau*, *hapu*, *imi*, or family group:

To make provision for the appointment of a Commissioner for Children:

To repeal the Children and Young Persons Act 1974

The clear commitment to families (as opposed to children and young persons only) in the long title is reiterated in Part I of the Act, which presents General Objects, Principles and Duties. While the object of the Act is simply stated - “The object of this Act is to promote the wellbeing of children, young persons, and their families and family groups” (s4), the means for achieving that objective are more detailed. A distinction needs to be made here between the means for achieving the objective (services and facilities in the community) and the mechanism through which these are accessed (FGCs). The objective is to be achieved through the establishment and promotion of services and facilities within the community which would advance the wellbeing of children, young persons and their families, having particular regard to “needs, values and beliefs of particular cultural and ethnic groups” (s4 [a] [i]). Such services and facilities are to be easily understood and accessible to children, young persons and their families, and to be provided by culturally sensitive persons and organisations (s4 [a] [2]).

In addition to the provision of such services, the Act aims to assist parents, families, *whanau*, *hapu*, *imi* and family groups to discharge their responsibilities to prevent their children “suffering harm, ill-treatment, abuse, neglect, and deprivation” (s4 [b]), to assist children themselves in order to prevent the same (s4 [d]), and provide protection from such possibilities (s4 [e]). The Act also aims to assist children and their families where the relationship between the two has been disrupted (s4 [c]). In cases where children have committed offences, the Act aims to ensure that they are “held accountable ... and accept responsibility for their behaviour; and are dealt with in a way that acknowledges their needs and that will give them the opportunity to develop in responsible, beneficial and socially acceptable ways” (s4 [f]). Finally, the Act seeks to encourage and promote “co-operation between organisations engaged in providing services for the benefit of children ... and their family groups (s4 [g]).<sup>4</sup>

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<sup>4</sup> The new policy environment, however, does little to promote such co-operation in as much as the funder/provider split introduced into most state sector activities during the reforms of the late 1980s, culminating in the Public Finance Act 1989, results in service providers essentially being in

The distinctive philosophy of the Act is given expression in the General Principles in section 5:

Those who would exercise power under the Act are to be guided by the following principles:

family participation in decision-making affecting the child, and regard for the views of the family:

preservation and strengthening of the relationship between the family the child:

consideration of how decisions will affect the welfare of the child, and the stability of the child's family group:

consideration of the wishes of the child, having regard to the child's age, maturity and culture:

enlisting the support of the family and the child in the exercising of any power conferred by or under the Act:

implementation of decisions within a timeframe appropriate to the child's sense of time.

In its aims, objects, principles and philosophy the Act is therefore unequivocally supportive of the family unit - children, young persons, parents and extended family are to be supported and their wellbeing is to be promoted. Families are to be empowered by their inclusion in the decision-making process, while family relationships are to be strengthened by culturally sensitive services and facilities within the community. Parents of young offenders are offered further support in their parenting by the requirement that young offenders be held accountable and assisted in their social development. As noted during the submission process, the efficacy of these aspects of the Act is dependent on the provision of sufficient resources. Problems in this regard notwithstanding, the Act promises much in its holistic view of families and its attempts to include families in decisions about their offspring. In this, the Act provides a means of restoring to families a substantial measure of the power that had been captured by the professionals in the course of the century, thereby addressing one of the major concerns prompting review and reform of the older legislation. There is evidence of a subtle shift in emphasis in the next section of the Act, however.

Section 6 of the Act reiterates the paramountcy principle of the 1974 Act, stating that where there is any conflict of principles or interests, "the welfare and interests of the child or young person shall be the deciding factor". Despite the family orientation of the

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competition with each other for available funds and in non-Government agencies experiencing increasing difficulties in accessing resources (Mason, 1992, p.131). These problems have been exacerbated by the frequent restructuring and policy changes within the Department.



preceding sections, a clause such as this in child welfare legislation is not inevitably inappropriate or problematic, given the acknowledged inseparability of the interests of families and their offspring in most cases. The wording of the 1989 Act differed from both the 1974 Act and the Guardianship Act 1968, however, and was criticised even before the implementation of the Act. The change in wording was seen in some quarters as a dilution of the paramountcy principle in that the child's interests became the deciding factor only when there was a conflict of interests or principles, an interpretation of the new wording that was reinforced in the Mason Report in 1992.<sup>5</sup> The report agreed that the new wording effectively weakened the focus on children, citing as problematic its reliance on the ability of social workers to recognise that a conflict of interests existed, particularly in Family Group Conferences which give status and rights to the competing interests of all interested parties. Given that the FGC process provides time for family discussion without the presence of the professionals, identifying conflicts of interest is even more problematic, though this also assumes an inability on the part of the family to recognise conflicts of interest. The report also found that the process of seeking consensus and resolution increased the potential for the child's interests to be overlooked (Mason, 1992, pp.8-12). Subsequent to the Report, an Amendment to the legislation in 1994<sup>6</sup> repealed Section 6, substituting instead a return to the wording of the earlier Act wherein the interests of the child are the first and paramount consideration.

While the concerns expressed in the Mason Report are valid, the Amendment confers a responsibility on the professionals that essentially requires them to align themselves with the child or young person such that the result is more reminiscent of an adversarial, rather than either a mediatory or inquisitorial, approach. An adversarial approach inevitably involves issues of power, and a process in which children and young persons are ascribed greater rights and are championed by the professionals demonstrably affects the relative power of parents. Additionally, the provisions have the potential to draw battle lines, in that the Convenor and various professionals attending the conference tend to be viewed by family members as representatives of the Department - or at the

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<sup>5</sup> Established in July 1991, this Ministerial Review Team, headed by retired Judge Ken Mason, was charged with investigating and reporting on the implementation of the 1989 Act in practice.

<sup>6</sup> Among other changes implemented in the 1994 Amendment was the addition of a duty in relation to child abuse to "promote, by education and publicity, among members of the public (including children and young persons) and members of professional and occupational groups, awareness of child abuse, the unacceptability of child abuse, the ways in which child abuse can be prevented, the need to report cases of child abuse, and the ways in which child abuse may be reported" (s7 [2] [ba]). The imposition of this duty, effective from July 1995, gave impetus to publicity campaigns concerning child abuse and neglect.

very least, the system - rather than the community, a view reinforced by the common practice of convening conferences within the Department's environs.<sup>7</sup> This demarcation between the family and professionals has the potential to undermine the intentions of the Act in terms of the co-operative approach envisioned for care and protection FGCs. Within the detail of the subsequent section of the Act, however, is a return to an holistic approach.

Section 7 of the Act details the responsibilities of the Director-General of Social Welfare in terms of attaining the objects of the Act in a manner consistent with the principles of the Act. There is a duty to ensure that all policies adopted, and services provided, by the Department avoid the alienation of children and young persons from their families. This duty has the potential to ensure the paramountcy principle is not interpreted and enacted in an adversarial style, though its translation into practice is not assured. The Director-General must also monitor the effects of social policies and issues on children and advise the Minister in this regard. S/he must promote the establishment of appropriate services and the adoption of policies "that are designed to provide assistance to children and young persons who lack adequate parental care, or require protection from harm, or need accommodation or social or recreational activities". Further duties include establishing and funding Care and Protection Resource Panels, ensuring adequate staff training and standards compliance, establishing review procedures, and monitoring and assessing services provided under the Act.

The performance of these duties has come under considerable attack since the implementation of the Act, with the Mason Report voicing particular concern regarding the standard of staff training and qualifications, inconsistency in standards compliance, lack of clear lines of accountability, insufficient funding, poor public relations and a lack of co-ordination and co-operation between the Department, service providers and community and voluntary organisations. Each of these failures necessarily affects all parents of *at risk* children and young persons. Poor public relations, and the public profile that results from this, will discourage some families from seeking assistance in the first instance. For those families who either seek assistance or come to notice, the service provided will be affected by each of the failures outlined above, though one - insufficient funding - has predominated amongst the concerns voiced by CYF staff, community groups and the Commissioner for Children. Achieving the intent of the legislation is ultimately dependent on adequate funding of FGCs and their associated

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<sup>7</sup> This practice is largely related to cost minimisation.

plans and continuing problems in this regard threaten the efficacy of the implementation process.

### ***Definition of care and protection cases***

Parts II and III of the Act are concerned with the care and protection of children and young persons, while Parts IV and V cover youth justice. As in the 1974 Act, there is extensive definition of the grounds on which a child or young person may be deemed in need of care or protection. While some of the criteria remain substantively similar to the earlier Act, some have been deleted altogether and others have been added. Of those reflecting the criteria of the 1974 Act, section 14 (a) and (b) are concerned with physical, emotional, mental and sexual abuse, neglect, and deprivation leading to impaired development, or the likelihood of impaired development, giving an essentially “updated” wording of section 27 (2) (a-c) of the old Act. Section 27 (2) (d) of the old Act, relating to the duty and care of parenthood, is restated in subsections (f) and (g) of the new Act in so far as they are concerned with children whose parents are unwilling or unable to care for the child (f) or have abandoned the child (g). Similarly, subsections (d) and (e), in referring to cases where the child’s behaviour is detrimental to his/her own wellbeing or to others, or where the parents are unwilling/unable to control the behaviour of the child (d), or where offences are of a number, nature or magnitude to cause concern for child’s wellbeing, mirror subsections (e), (f) and (i) of the 1974 Act.

A notable change in the new Act is the omission of subsection 27 (2) (h) of the earlier Act, which cites truancy as indicating a need for care, protection or control,<sup>8</sup> from the new legislation. In as much as truancy might be deemed one of the early indicators of *at risk* behaviour the omission is cause for concern. While truancy might be regarded as falling under Section 14 (d) - “...behaving in a manner that ... is likely to be harmful to the physical or mental or emotional wellbeing of the child or young person” - there is no longer an automatic referral for investigation and the decision as to whether or not to proceed along these lines is at the discretion of the professionals involved. Indeed, following the introduction of the Act, responsibility for enforcing the attendance requirements of the Education Act fell on individual school’s Boards of Trustees, though there was no specific resource allocation for this function (Mason, 1992, p.90). As a

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<sup>8</sup> The term control is considerably less evident in Parts I and II of the 1989 legislation than in the 1974 Act, though it should be noted that youth justice is treated separately in the later Act. None the less, there is a sense in which notions of control are more readily associated with official care or custody and tend to be minimised in the family domain.

consequence, there ensued an extended period during which truancy, attendance and enrolment were largely unpoliced. The recommendation of the Mason Report that persistent unexplained or unjustified absences from school be deemed a care and protection matter under the Act was not implemented in the 1994 Amendment, and while informal and voluntary truancy services which developed in the interim have begun to achieve some consistency in funding from the Ministry of Education and contributing schools, many localities continue to be bereft of these services. It is acknowledged that other behaviours which are classifiable under section 14(d) are subject to the same professional discretion as truancy. Given that truancy is implicated in the backgrounds of a vast array of other *at risk* and behaviours, and that it is readily identifiable in the first instance, its omission from the Act is regrettable.

Three new, though related, areas of concern are cited in the new Act as criteria for establishing a need for care and protection. Serious differences between the child and parent(s) which seriously impair the physical, mental or emotional wellbeing of the child or young person (s14 [c]), or serious differences between a parent and another parent or guardian which result in the same effect (s14 [h]), are the first two of these new grounds for intervention. The first of these is designed to cover instances of a breakdown in the parent/child relationship, while the second acknowledges the detrimental effects on the child of ongoing or unresolved conflicts between parents/caregivers. Continuing on this theme, subsection 14 (I) - the third new area of concern - covers those instances in which the ability to form or maintain significant psychological attachment to the person having care of the child or young person is seriously impaired due to interrupted care arrangements. This clause recognises the potential harm emanating from multiple or informal placements of children outside their usual care arrangements and seeks to ensure more deliberative actions by professionals arranging alternative care. While the justification for the inclusion of these clauses is easily understood, there are some alarming implications for parents, particularly when considered in conjunction with the availability of the Independent Youth Allowance. The opportunity to escape parental boundaries and limitations, coupled with the possibility of a personal income, provide a tantalising incentive for disaffected youth to overstate differences with their parents. Upholding the intent of the legislation here requires an accurate and comprehensive assessment of family circumstances by the professionals.

Despite the long history of an increasing perception of children's and young persons' misdeeds as indicators of need, the 1989 Act reverses this process on the grounds that increasing numbers of court appearances and admissions to institutions were evidence that the welfare approach to youth offending did not work.<sup>9</sup> In dealing with youth justice (Parts IV and V), the Act advocates avoiding criminal proceedings "unless the public interest requires otherwise ... if there is an alternative means of dealing with the matter" (s208). With the exception of the principles expressed in Section 208, the whole of Parts IV and V are concerned with processes and procedures for dealing with young offenders, both within and outside the Court system. Within the principles expressed in Section 208, the earlier principles of normalisation and localisation are reiterated, along with an emphasis on strengthening families and fostering their ability to cope. In addition to promoting the view of children as individual possessors of rights, the principles also require that age be viewed as a mitigating factor in determining sanctions (s208 [e]), and that the vulnerability of children and young people be acknowledged through the entitlement to "special protection during any investigation" (s208 [h]). In this, the legislation encapsulates the dilemma regarding the treatment of children and young persons as individual citizens, while at the same time acknowledging their particular vulnerability. In the current context the dilemma is unresolvable, and the legislation represents a fair approximation of prevailing opinion on the matter. This is not to say that implementation of the youth justice provisions proceeded unproblematically - the police, in particular, becoming embroiled in a debate on the procedures regarding questioning and arrest.<sup>10</sup>

In direct contrast to the notion of control expressed in the earlier Act, the principles here require that any sanctions imposed on the young offender "take the least restrictive

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<sup>9</sup> If the numbers of court appearances and admissions to residential institutions were indicative of a need to shift from a welfare approach, they are unlikely to be useful as a means of evaluating the efficacy of the justice approach. The comparison is necessarily invalid because diversion away from the Court system is one of the aims of the new Act. Furthermore, children (those under 14 years) could now be charged only with murder or manslaughter, essentially removing this group from the statistics altogether. What is clear is that court appearances by youth had fallen dramatically by 1990, with far greater percentages (around 90%) being diverted to FGCs (Dalley, 1998, p.276).

<sup>10</sup> The most high profile incident concerned murder charges against two young offenders involved in the death of a Waikato farmer. In part, the police's failure to follow correct procedures regarding questioning and cautioning resulted in the case being dismissed. Despite repeated criticisms by the police of the protections afforded children and young persons in the existing legislation, the rights of young offenders were further strengthened in the 1994 Amendment, particularly in regard to procedures surrounding questioning by the police.

form that is appropriate in the circumstances” (s208 [f] [ii]). Thus, while ostensibly instituting a more punitive approach in the shift from a welfare to a justice model, the new legislation effectively promotes more liberal treatment of offenders than its predecessor, though this assumes offenders will receive more lenient treatment from FGC participants than from the courts.<sup>11</sup> It is also noteworthy that while accountability and responsibility for offences forms part of the General Objects in Part I of the Act, these notions are not reiterated in the youth justice provisions, (though they are implicit in the sanctions which may be imposed on the young offender) which tend to focus on the rights of the young offender, tempered somewhat by consideration of the victim and the public interest.<sup>12</sup>

### ***Family group conferences***

The most innovative feature of the new legislation is the introduction of Family Group Conferences, provided for under Sections 20-38 for care and protection matters, and Sections 245-271 for youth justice proceedings. The 1974 Act had introduced citizen participation through the Children’s Boards, and in 1980 formal Child Protection Teams were set up in Dunedin and Hamilton as pilot programmes in response to the heightened public awareness of, and concern for, child abuse. Though never established on a national basis, the Teams represented an holistic, multi-disciplinary approach to identifying and responding to *at risk* children and young persons (Mason, 1992, p.50). The abolition of this facility in the new Act required an alternative means of incorporating community representation if the ethos of the legislation was to be sustained. Drawing on the processes previously utilised in child abuse cases, the new legislation extended the practice of the multidisciplinary Child Protection Teams “which brought together Department of Social Welfare social workers, other professionals with specific expertise and relevant family members in case conferences” (Swain, 1995, p.166). These case conferences - FGCs - are one of two aspects of the new legislation that attempt to ensure continued community representation in care and protection matters.

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<sup>11</sup> Research to date suggests this is not the case though data is incomplete and completion of any punishments is less assured under FGCs, again due to resource constraints (Maxwell, 1998).

<sup>12</sup> Consideration of victims was further strengthened in the 1994 Amendment in that section 251 (2) was amended to allow the victims or their representatives to be accompanied at the FGC by “any reasonable number of persons ... who attend the conference for the purpose of providing support for that victim”. Though not official participants in the FGC, the presence of “support” persons enables the attendance of victims who might otherwise have forgone the FGC due to concerns about intimidation or retaliation (Swain, 1995, p.181).

Considered the linchpin of the new legislation, and the primary vehicle for empowering the families of *at risk* children and young persons, FGCs constitute the primary mechanism for the statutory disposal of care and protection or youth justice matters. Where any social worker, or member of the police, or any body or organisation concerned with the welfare of children and young persons believes there is a need for care and protection, the matter must be referred to a care and protection Co-ordinator who must convene a FGC (ss18 and 19). In youth justice matters legal proceedings may not be instituted against a child or young person unless a FGC has been held (s245).<sup>13</sup> In most youth justice matters the FGC is the usual means of disposing of the matter, dependent on the gravity of the offence(s) and on acknowledgment by the young person of responsibility for the offence. Where a young person has been arrested and brought before the Court to answer charges, denial of the charges results in further Court procedures and a FGC need not be convened. In essence, FGCs are formally convened meetings, but with relatively informal procedures, and have statutory powers to investigate circumstances, address pertinent issues relating to the child or young person's care and protection and, if the conference considers there is a need for care and protection, to make recommendations and formulate plans with respect to the child (s28).

Though the conferences may regulate their own procedures (s26), the duties of the care and protection or youth justice Co-ordinator are clearly defined in the Act, and include not only managing the logistics of the conference - date, time and venue in accordance with the family's wishes - and ascertaining and presenting the views of members unable to attend, but also ensuring that the conference receives relevant information, advice and administrative services. Most commonly, the usual course taken during a FGC allows for the presentation of information, ideas, advice and reports from the Co-ordinator and other professionals, after which these members withdraw and allow the family to discuss and deliberate in private. Any decisions or plans developed by the family are then presented to the conference in full, but may not be adopted unless agreed by the conference as a whole. That is, the family's recommendations and plans may be subject to a veto by the Co-ordinator or other professionals involved. Similarly, the family may reject plans proposed by the professionals. Where the Co-ordinator is unable to secure agreement, and where the conference has been convened under Section 18 (1),

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<sup>13</sup> There are some exceptions to this, outlined in the 1994 Amendment, and mostly concerned with repeat offenders.

pertaining to a need for care and protection, the Co-ordinator must make a report to the referring social worker or member of the police, who may then “take such actions under this Act as that person considers appropriate” (s31 [2]). Subsequent action is the prerogative of the professionals, not the family. The family empowerment promised in the legislation is therefore dependent of a concurrence of opinion between the family and the professionals.<sup>14</sup> While most conferences do reach agreement, the prospect of a veto has the potential to suppress opposition by the family to the opinions of the professionals. Again, while the need for an avenue by which to address complications arising from clearly inadequate family contributions is appreciated, the process once again leaves parents in a vulnerable position, a vulnerability which can be exacerbated by the calibre of the professionals involved.

### ***The Co-ordinator’s role***

The efficacy and outcome of the FGC is very much dependent on the competence of the Co-ordinator. Part X of the Act stipulates that “a person shall not be appointed to be a care and protection Co-ordinator unless that person is, by reason of his or her personality, training, and experience, suitably qualified to exercise or perform the functions, duties, and powers conferred or imposed ... under the Act” (s423 [2]). In addition to administrative skills, section 424 requires consultative skills with a varied range of people and a solid understanding of the Act. Given the importance of the FGC in the current legislation, it is clear that those charged with facilitating the process can be a key factor in its success or failure. The initial novelty of the FGC process meant that persons of appropriate training and experience were unlikely to exist at the time of the Act’s introduction. This to some extent explains the concerns expressed to the Mason Review Team over the wide variations in the abilities and performances of Co-ordinators, along with concerns over their selection and appointment, supervision and on-going training (Mason, 1992, pp.60-68). These concerns become even more salient in the light of section 427 which allows Co-ordinators to delegate any function or power conferred on the Co-ordinator under the Act to a social worker who is “in the opinion of that Co-ordinator, suitable by reason of his or her training or experience to carry out that function or power”. Given the initial concerns as to the calibre and capacity of the Co-ordinator, such delegation has the potential to compound the problem.

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<sup>14</sup> Final recourse in such cases is to the Family Court and parents and the professionals alike may make application to the court. While this may have an equalising effect, the professionals are more likely to be in familiar territory than are the parents.



Concern has also been expressed at the dual roles Co-ordinators are expected to fulfil - as both employees of DSW and servants of the FGC. That is, though expected to “act independently and impartially in the interests of FGC participants” (Mason, 1992, p.60), they must also demonstrate loyalty to DSW. While the two are not inevitably mutually exclusive, neither are they unproblematic. The tension between the roles has the potential to subvert both the intentions of the Act and the efficacy of the FGC, particularly in respect of the Department’s liability for funding FGC outcomes. In addition to adhering to prescribed protocols and refraining from explanations or comments that imply criticism of the Department, the Co-ordinator’s cognisance of departmental fiscal constraints may inhibit his/her contribution in respect to serving the interests of the participants. Further to this, there are complications not acknowledged in the requirement to serve participants independently and impartially. It may be that FGC participants are diametrically opposed and certainly there exist sets of competing and conflicting rights among the participants, providing considerable challenges for the Co-ordinator. As already noted, the paramountcy principle requires those acting under the Act to treat the child’s interests as first and paramount, presenting immediate problems in the requirement that Co-ordinators act impartially.

Although convening a conference is mandatory once a matter has been referred to a Co-ordinator by social workers or police (the procedure varies slightly in cases where the referral is from another agency or organisation), attendance at the conference is not mandatory for family members. Section 22 (1) details the range of people who may attend a FGC for care and protection matters. The Conference Convenor has the authority to veto the attendance of the child or any parent, guardian or family member whose attendance would not be in the interests of the child, or would be undesirable for any other reason (s22 [1] {a} {b}), again tilting the balance of power in favour of the professionals. The section is clearly intended to protect the victims of abuse, but does not address the possibility of unfair or inappropriate exclusion of family members by the Co-ordinator. This is particularly pertinent in cases involving false accusations of abuse, particularly sexual abuse.

On receipt of a report of ill treatment or neglect, a social worker or member of the police must investigate whether or not there is a care and protection issue involved. In cases where the social worker or member of the police “reasonably believes that the child or young person ... is in need of care or protection, (they) shall ... notify a care and protection Co-ordinator” (s17 [2]), who must then convene a FGC. The need for care

or protection is therefore implicit in the convening of a care and protection FGC. Since the professionals involved are legally bound to preserve the paramountcy<sup>15</sup> principle and are essentially acting for the child or young person, there is a need for some corresponding advocacy for parents in these cases. False allegations of abuse are particularly distressing for parents and exclusion from the FGC presents a further problem. The appointment of an advocate, of similar status to the professionals representing the child or young person's interests, to represent the parents both prior to and during the FGC may assist in resolving the dilemma.<sup>16</sup> If the family does not consider there is a need for care or protection, and does not attend the FGC for this or any other reason, the subsequent course of action is not prescribed. While Swain (1995, p.172) and Atkin (1990, p.330) see this as an omission that indicates a continuing role for the Courts, it is argued here that the FGC could be viewed as unable to reach consensus, and, following the relevant provisions in the Act in this regard, this empowers the referring social worker or member of the police to act as s/he sees fit. Thus while parental attendance is not mandatory, parents risk much by their absence and any conviction they may hold that the conference is unnecessary or inappropriate (or even unfair) must be over-riden if they wish to maintain any authority in regard to subsequent action concerning their child.

### ***Procedures where FGCs fail***

Where parents do not attend, subsequent actions are likely to require recourse to the Courts (as Swain notes), and may include application for a "place of safety" warrant (s39), or a warrant to remove (s40), both of which may be obtained from a District Court Judge or any Justice or Registrar, and both of which place the child or young person in the custody of the Director-General. These steps are not contingent upon a FGC having been convened, and are designed to enable rapid responses in emergency situations (but are not precluded by a FGC having been convened). The family's position on the matter is not considered until it comes before the Court (which must be within 5 days [s45]), or unless the family takes prior Court action for release of, or access

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<sup>15</sup> Any polarisation at this point is likely to be exacerbated by differences of opinion regarding the best interests of the child, since these are undefined in the legislation. It is not suggested here that this constitutes an aberration in the legislation. The essential point to note is that determinations of the best interests of the child will vary according to who is making the determination. A social worker's determination will not exactly reflect that of a lawyer or psychologist or doctor or parent. Each approaches the matter from a slightly different perspective and, despite their common aim, the determinations will reflect the discourse pertaining to each.

<sup>16</sup> While it is one of the duties of the Co-ordinator to ensure that the views of absent members are represented, the Co-ordinator's own conflicts of interests, mentioned above, again present problems.

to, the child. Section 159 allows for the appointment of a barrister or solicitor to represent the child or young person (Counsel for the Child), and a further barrister or solicitor may be appointed to assist the Court, both of whom are remunerated from the Consolidated Account. Parents must engage their own legal representation and under Section 162 (4) may also be ordered to reimburse the Crown for the cost of the child's representation. In cases where a FGC has been held, Section 68 allows the social worker or member of the police to seek a declaration from the Court that the child is in need of care or protection, and the Court may make such a declaration "in absence of proof of responsibility for neglect or ill-treatment of the child or young person" (s71). This section of the Act reflects the substance of the 1983 Amendment to the Children and Young Persons Act 1974. In a partial response to growing concerns over child abuse, the amendment had provided that where, "in the case of a complaint, the Court is satisfied that, but for the failure of the evidence to establish that a parent ... is culpable in relation to the harm suffered by the child or young person, the grounds of the complaint are proved, the Court may find those grounds proved" (s29[a] [i]). This provision remains in the current legislation, and is significant in its differential treatment of citizen's rights in that it operates in contradiction to the prevailing ethos of the criminal justice system which assumes innocence until guilt is proven - and in so doing, subordinates parents' rights.

While perhaps going some way towards addressing concerns expressing a need to "achieve legislation which will support professional workers to assist the family to function but which will also offer dependable protection for the child ..." (DSW Report on Proposed Changes, 1984, p.4), the balance of power is decisively with the state and judiciary, leaving parents struggling in unfamiliar territory. Denial by the parents of a need for care or protection may have little effect in both the FGC process and any subsequent Court action, unless they are able to prove their innocence. This aspect of the legislation is particularly troubling in child sexual abuse cases and cases of mental or emotional abuse, where physical evidence of abuse can be scant and cases are very much dependent on the testimony of medical and social work professionals. There is a sense in which such cases can be viewed as unfortunate, but inevitable, casualties of a system primarily concerned with the protection of children. In cases of alleged child abuse the age of the victim and the nature of the alleged offence is often such that decisive action is required. The manner in which the process is undertaken is heavily dependent on the beliefs and attitudes of the professionals, whose primary responsibility is towards the

child. A poor perception of parents in general does not augur well for parents suspected of child abuse. The balance of power is decidedly weighted against the parents in abuse cases in the first instance, and the pendulum swings further still in the assumption of guilt, unless, or until, innocence is proven. It is vital that a sure and rapid response is available to protect abused children and young persons. The position of parents during the process of substantiating or discounting allegations of abuse also requires consideration. While the legislation presents a response to child abuse that necessarily subordinates parents' rights, the extent to which this is problematic is dependent on the manner of its operationalisation - and this is in turn affected by prevailing perceptions of parents. The analysis in the previous two chapters suggests that problems for parents experiencing this process will not be minimised.

### ***Invoking the Act - parents***

In instances where parental abuse is not an issue, the power of the professionals - and to some extent their children - can continue to impact negatively on parents. Parents who may be temporarily unable or unwilling to care for a child or young person may place the child or young person in the care of the Director-General for a period not exceeding 28 days, but only subject to the agreement of the Director-General (s139). Thus determination of the need for temporary care (or extended care under s140) is at the discretion of the professionals. Furthermore, this may only be done with the consent of the child (if over 12 years of age) or young person. It is not sensible to suggest that parents be given *carte blanche* in determining when and if the state should provide respite for the parents. There is a danger, however, that resource constraints will engender the rationing of services and families, who by any other measure would be deemed to be in need of assistance, will be denied access to the services available under the Act. An agreement under Section 140 may not be made without the approval of a FGC, and this is subject to the veto of the professionals, again potentially exposing families to the constraints of inadequate funding.

Additionally, parents face inordinate problems in attempting to instigate a FGC - it can be ordered by the Court or convened by the Co-ordinator only. Neither is readily accessible to parents, since referrals are generally made by the police or a social worker, and occasionally by other community organisations. Parents face the prospect of working through a third party to convince those in authority that a FGC is necessary. Representation for parents is addressed directly in s169 in the Act, allowing representations by and for parents and guardians in court proceedings, though

representation is at the parents' discretion and expense. Financial considerations and familiarity with procedures will both affect decisions in this regard. Some assistance is possible through the courts in that the Act allows for the appointment of a Lay Advocate ("any person, not being a barrister or solicitor, to appear in support of that child or young person ... and ... for such other purposes ... as the Court may specify." [S163]). The Lay Advocate is funded on the same basis as the Counsel for the Child and has particular responsibility for ensuring the Court is apprised of any pertinent cultural matters. Although there is, once again, the problem of the need to go to Court in order to access such an advocate, this provision presents an opportunity for some form of advocacy for the parents and family, albeit obliquely. Although primarily established in order to assist the court with respect to the child or young person's background, there is the potential for the parents' perspective to be included within the advocate's duties. None the less, the Lay Advocate is possessed of the same potential conflict of interest that pertains to the Co-ordinator in that the focus of the position is necessarily on the child. In practice, they are seldom appointed, and, like the Care and Protection Resource Panels, have a low public profile. The Mason Report's recommendation that DSW undertake a publicity campaign in regard to Lay Advocates has not eventuated, nor has the problem of access for families involved in non-judicial proceedings been addressed. Consequently, the avenue of greatest hope for parents to receive procedural and administrative assistance from within the system remains largely obscured from public view and parental consciousness, confirming that:

There is a large gap between the Act and the caregiver. We see the position of Lay Advocate as the person who fills the gap by liaising, mediating and facilitating between all other groups.

(Dunedin Community Law Centre, cited in Mason, 1992, p.177)

### ***Invoking the Act - children and young persons***

While parents may have few avenues for instigating action under the Act, any or all of these procedures can be set in motion by the child or young person him/herself under Section 48. This section details procedures should an unaccompanied child or young person<sup>17</sup> be found in a situation in which their "physical or mental health is being, or is likely to be, impaired" (s48 [1]). A member of the police can, with the consent of the child or young person, return him/her to the custody of his/her parents. If the child or

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<sup>17</sup> In this instance "young person" refers to those aged over fourteen years but less than sixteen years, since at sixteen young persons are legally entitled to live independently of their parents.

young person does not wish to be returned to a parent, or if no parent willing or able to have custody of the child is available, s/he can be placed in the custody of the Director-General.<sup>18</sup> The legislation does not require any reason beyond the expressed wish of the child not to return home. Placement in the custody of the Director-General is deemed sufficient authority for the detention of the child until s/he agrees to being returned to a parent/guardian (s48 [2] [a]), or an application is made for a declaration under Section 67 (s48 [2] [b]), or the expiry of 5 days if there is an indication that s/he may be in need of care or protection. In any other case s/he may be detained for a maximum of 3 days (s48 [2] [c]). This last provision not only allows time to investigate the possibility of a need for care or protection, but also for a cooling off period in those cases where there is some conflict between parent(s) and child, but no evidence of a need for care or protection. In cases such as this, however, the legislation offers no procedures should the child or young person still refuse to return home. Sensibly, continued refusal to return home would be construed as constituting a need for care and protection, or as an indication of serious differences between parent and child under Section 13 (c), thereby setting FGC procedures in motion. It is troubling that these procedures are not specified, allowing the opportunity of repeated absconding with little accountability for the child or young person. Similarly, there is no onus on the professionals to take further action, though the parents may be prosecuted for failing to exercise proper care and control. It is also troubling that parents need the child to misbehave repeatedly or seriously - and be caught - in order to set in motion the processes that they are unable to initiate in their own right.

Parents, as a result, may find themselves in an untenable situation. That is, should a child abscond from home as a result of conflict (perhaps the result of setting limits on behaviour), and refuse to return home within the allotted 3 days, parents have no prescribed course of action, and, it seems, no recourse to the Courts. Concerns the parents may have for the child or young person's care or protection in the light of the absconding will not result in a FGC or any other official action unless the professionals involved concur. Again, the empowerment of the family heralded in the Act is open to question.

By contrast, Section 385 outlines considerably different procedures should a child or young person abscond from an official residence or the care of an approved person or

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<sup>18</sup> If a child runs away from home, the parents have the right to refuse to allow him/her to return, though most parents are unfamiliar with this right.

organisation. In this case, the child or young person may be detained without warrant and returned to the residence or carer irrespective of the child's or young person's wishes. There is no offence committed in absconding (unless the young person is in custody pending Court action), but clearly any problems that may have led to the absconding are considered in a vastly different light to problems that lead to absconding from the family home. Absconding from the custody of the Director-General can also be grounds for placement in secure care if any two of three conditions apply (s368). These conditions are: previous absconding on one or more occasions within the previous six months from a residence (established under s364) or from police custody, or a real likelihood of further absconding from the residence, or a likelihood of physical, mental or emotional harm from further absconding. While all these conditions may be of substantial relevance to parents whose child is absconding from home, no similar recourse to secure care is available.

### ***Disposition of youth justice cases***

In a clear indication of the objective of averting or minimising judicial processes wherever possible, the Act promotes non-judicial procedures for all but the most serious of crimes by children and young persons. If the offender is under fourteen, police diversion is the preferred course of action. Should this be considered inappropriate or insufficient a FGC will be convened. While the proceedings for a youth justice FGC are similar to those of a care and protection FGC, the purpose of the conference is not, and is dependent on the circumstances of the individual case. Referrals may be direct (ie the Court orders a FGC) or indirect (the Courts are not involved). Care and protection issues may need to be considered, but in addition to this the conference is likely to consider whether or not Court proceedings should be instituted in regard to a particular offence, whether existing proceedings should continue, what penalties and reparations might be appropriate and whether or not a formal police caution should be given to the offender (s260). Direct referrals require Court approval of any plans or agreements proposed at a FGC, and where agreement is not reached the matter must be referred to the Youth Court for resolution.

Unlike care and protection cases, the plans and recommendations of youth justice FGCs need not adhere to the paramountcy principle. That is, though afforded some consideration, the interests of the child or young person are not the first and paramount consideration. A child or young person who comes to notice for shoplifting or graffiti, for example, will therefore be treated differently from one who truants or absconds from

home, these actions not being classified as offences by the child or young person. While in the former cases the offender is held accountable, in the latter cases the offenders' (though this term is not strictly applicable) parents are liable and their offspring are afforded primary and paramount consideration. Thus, while any or all of the misbehaviours might be, for instance, an act of willful defiance, the response is decidedly less supportive of parents in the latter cases. There is no clear reason to suppose that a child or young person deemed mature enough to be held accountable for graffiti or shoplifting might not also be held accountable for truancy or absconding (*ceteris paribus*), and participate in a youth justice, rather than care and protection, FGC.

Should the FGC fail to produce consensus, or should those attending the FGC consider it necessary, the matter is referred in the last resort to the Family Court. In cases in which the offender is aged between fourteen and sixteen years, and the charge is not denied, the same course of action is applicable, though referral is to the Youth Court, rather than the Family Court. Measures by which the child or young person may be kept out of the Court system include diversion, warning (not recorded on the Wanganui computer), caution (more formal, requires parents' presence at the police station; not usually recorded on the Wanganui computer), or a visit from a Youth Aid officer (at home). A visit and caution may also involve reparation, community work or family-based punishment (Gilbert, 1996, p.248). Section 260 (3) (e) allows the FGC to recommend reparation to any victim of the offence, though parents may well be incurring personal liability if the offender is not in a position to pay. Should the matter proceed to court, either through failure of the FGC to reach agreement or because of the seriousness of the offending, Section 283 allows the parents to be held liable for reparations. This liability is not attached to the Director-General or approved carers for damage done by children or young persons while in their care or custody (s394), suggesting a measure of guilt is ascribed to parents whose children offend. The balance is restored in some measure, however, in Section 288, stipulating that orders may not be made in respect of parents or guardians unless they have been given the opportunity to be heard.

As outlined, the primary thrust of the current youth justice legislation is aimed at keeping young offenders out of the Courts. Should an appearance in a Youth Court prove necessary, however, the procedures and functions of the Court differ from an adult Court. The Youth Court eschews adult-like punishments, hearings are private and cannot be reported in the media and the process is less formal than in the adult court.



Parents are expected to attend (s278). A Youth Advocate (s323) or a Lay Advocate (s326) may be appointed to represent the child or young person in any Court proceedings and is entitled to attend a FGC if requested to do so (s323 & 324). While responsibility for payment of these advocates falls in the first instance to the Crown, any part of the fees and expenses may subsequently be claimed by the Crown from any other parties (including parents) to the proceedings (s325).<sup>19</sup> If the appearance is for a second or serious offence, the Court may convict and sentence, or refer the case to the District Court for sentencing if the young person is over 15 years of age. The option of trial by jury is available to those appearing in the Youth Court and appeal to the High Court is also possible.

Among the penalties available to the court under Section 284 are: a supervision with residence order of up to three months (secure care), up to 200 hours community service, forfeiture of property, vehicle confiscation, driving disqualification, orders for compensation to the victim, fine, suspended sentence, admonition or discharge without penalty. Although custodial sentences are avoided in all but the most serious of cases, and despite the objective of avoiding adult-like punishment, these penalties differ little from those available to the adult Court. The most significant difference lies in the restrictions on secure care. Similarly, matters taken into consideration during sentencing also reflect the adult process - the offence itself, role and attitude of the offender, young person's actions since the offence, personal history, family's response, impact on the victim and previous offences. It would appear therefore, that there is a point at which the young person's behaviour is regarded as requiring adult sanctions, a point related directly to either the seriousness of the offence or the proliferation of offences.

At this point the young person loses some measure of the special protections and considerations formerly accorded him/her on the basis of age. This can be seen as consistent with the loss of paramountcy of the child or young person's interests in youth justice matters. That is, while the paramountcy principle prevails in care and protection matters, commission of an offence relegates the interests of the child or young person, and more serious or repeated offences have a similar effect on the provisions for averting criminal proceedings. In this respect, the legislation would seem to reflect a retributive philosophy of justice, and is at odds with the remainder of the Act. This apparent

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<sup>19</sup> In essence, this repeats the provisions for care and protection hearings (ss159, 162, 163 & 165) instituted under Section 67 (seeking a declaration that the child or young person is in need of care and protection).

contradiction is, none the less, consistent with the Act's objective of ensuring accountability for the offence (s4 [f] [i]). The tension here is inevitable. Failure to set a point at which errant behaviour is deemed to require formal Court proceedings would not only run counter to prevailing notions of justice, but would also have the effect of granting *carte blanche* to children and young persons. Demarcation of such a point in the Act is a tacit acknowledgment that, irrespective of age, and for want of a viable alternative, certain behaviours necessitate a response akin to adult-like treatment. That said, it is acknowledged that both the delineation of serious or repeated offending and the efficacy of non-judicial proceedings are subject to debate.

### ***Care and Protection Resource Panels***

While FGCs offer some measure of community representation, a second avenue for this under the new Act lies in the creation of advisory committees known as Care and Protection Resource Panels (s428). The function of these panels is to provide advice to Social Workers, care and protection Co-ordinators and members of the police on their performance under the Act (s429 [a]), to receive reports from Co-ordinators relating to such performance (s429 [b]), to promote co-ordination of services by the community to children and young persons (s429 [c]), and to advise the Director-General on matters relating to the appointment of care and protection Co-ordinators. The composition of the Panels is widely variable. Though the desirability of including representatives of occupations and organisations “including voluntary and statutory organisations, cultural and community groups, Government Departments and Government agencies” (s428 [3]) must be considered when making appointments to the Panels, all appointments are made by the Director General and the number of members on any given Panel is at the discretion of the Director-General, as is the provision to alter, discharge or reconstitute a Panel at any time. Under section 23 of the Act a Panel member is entitled to attend a FGC, if appropriate, for the purposes of imparting information or advice to the benefit of the conference. In all other cases, a Panel member may only attend with the consent of the conference.

Though presenting an opportunity for some form of community representation, the lack of statutory powers accorded the Panels (they may advise, but not direct those involved in care and protection cases), coupled with the wide discretionary powers accorded to the Director-General in relation to the Panels, presents problems similar to those attached to the Children's Boards under the older legislation. There is a danger that Panels may be either ignored or circumvented by those they were established to advise,

or constructed in such a manner as to ensure mere rubber stamping of the performance of the professionals involved.<sup>20</sup> The existence and performance of the Panels is seldom brought into the public arena and awareness amongst the professionals is not universal. A 1994 survey of professionals working in the area of child and adolescent care and welfare found that 22% of these professionals were unaware of the Panels, and of those who were aware, just 31% felt they were effective (Report of the Child Protection Trust Advocacy Committee, 1994, p.17). Furthermore, if the legislation regarding the Panels is to be the subject of criticism, its failure to provide specific means by which to monitor the performance of those acting under the Act, other than through reports from the very people they are charged with monitoring, is perhaps the greatest cause for concern. Characterised in the Mason Report as representing the only independent means of checks and balances on the official response to child care and protection matters, the independence of the Panels is also open to question in that they are appointed by the Director-General and funded by the Department.

Though there has been criticism levelled at the provisions, citing the lack of definition as to the panel's roles and responsibilities (Mason, 1992, pp.50-59) as problematic, and evidenced by the failure to consult the panels in some regions, or by some senior social workers, the problem would seem to lie in the practices of the Department rather than in the legislation itself. The Act is unequivocal - there must be consultation with a panel before the appointment of a care and protection Co-ordinator (s17 [1]) and further consultation before a FGC is convened. Furthermore, any attempt at a more precise definition of the Panel's role requires considerable caution since it will necessarily entail loss. Definition by its very nature produces an inclusive/exclusive divide, and it seems counter-productive to insist upon greater specificity if the result will be a reduced role for the Panels. In much the same way as rigid specification of family has been avoided in the Act (expounding instead a broad definition of "family group"), a general outline of the Panel's functions is given, and in both instances this is to be applauded. It is neither sensible nor appropriate to attempt to specify every conceivable possibility in either case.<sup>21</sup>

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<sup>20</sup> Evidence of such eventualities was presented in submissions to the Mason Review Team in 1992 (pp.51-52 & 55).

<sup>21</sup> Similar concerns arise in the absence of definitions of the interests of the child or specific *at risk* behaviours. Again, definition is likely to be counter-productive, though disagreements between parents and professionals on these matters can pose significant problems for parents.

Given the lack of awareness among the professionals, it is doubtful that parents are aware of the Panels' existence or functions. The relative obscurity of the Panels is regrettable in that opportunities for community involvement are subsequently lost. While it is not advocated here that the Panels be accessible to parents as a matter of course in care or protection proceedings, it is problematic that their presence at a FGC is driven from the professional end of the process only. Panel members' non-attendance at a FGC assumes that all relevant information and advice will be presented to the conference. It is not at all clear that parents would be successful in any request for a Panel member's attendance even if parents were aware of their existence. Under the present regime, it is possible that Panel members' presence at a conference might well be viewed as simply the addition of yet another professional, but the monitoring role of the Panels might be well served not only by participation in, and observation of, the conference, but also through the opportunity for interface with the parents, which would otherwise not occur at all. While the Panels must be cognisant of the paramountcy principle, they provide the opportunity for the addition of a community - as opposed to strictly professional - perspective with which the parents may more readily identify. Subsequently, there is the potential to minimise any adversarial inclinations during the conference, while at the same time offering the opportunity of a sense of support for the parents. This is not to suggest that the professionals are inherently problematic for parents. As noted earlier, however, their focus is necessarily on the child or young person and is informed by the culture of the organisation they represent. The Panels have the potential to bring a different perspective to the proceedings, one which parents may experience as more supportive of their own position.

### ***Office of the Commissioner for Children***

The Care and Protection Resource Panels' ability to undertake a monitoring role is considerably inhibited in that they have no statutory investigative powers and rely on information and reports given to them by Co-ordinators and social workers in order to make their assessments. Far greater investigative powers are accorded to the Commissioner for Children, established under the Act (s410). Appointed by the Governor General, on the recommendation of the Minister, the Commissioner's functions include investigating, on the child or young person's behalf, any decision or recommendation made, or any act done or omitted, under the Act in respect of that child or young person (with the exception of acts, omissions, decisions and recommendations made by the Court). S/he must also monitor and assess the policies

and practices of those people and organisations empowered under the Act and encourage within the Department the development of policies and services designed to promote the welfare of children and young persons. This pro-active aspect is also evident in provision (s411 [d]) requiring him/her to undertake and promote relevant research and provision (s411 [e]) that s/he inquire into and report on any matter relating to the welfare of children and young persons.

The Commissioner is charged with increasing public awareness of matters relating to the welfare of children and young persons, and must receive and invite representations from members of the public regarding the same. This latter duty suggests that the Office may represent an arena in which parents' voices might be heard, or their concerns investigated. The extent to which this is likely to be the case, however, is not encouraging, given, firstly, that the Office is dedicated to the wellbeing and empowerment of children (albeit within the family context), and secondly, that the level of funding available to the Office is demonstrably inadequate to undertake its primary statutory functions satisfactorily (Commissioner for Children, 1997, p.2). Even if this were not the case, consideration of parental rights would seem to conflict with the Commissioner's role as a champion of children's rights.

Section 412 grants the Commissioner "all such powers as are reasonably necessary or expedient to enable the Commissioner to carry out the Commissioner's functions" In this, the Commissioner's roles as an advocate for children and as a monitor of policies and practices under the Act seem to be well served by the legislation, though concern that the Commissioner is excluded from matters at Court, save for the good graces of the presiding judge, has been expressed from a number of quarters (Mason, 1992, pp.179 & 182). Like the Care and Protection Resource Panels, the Commissioner may regulate his/her own procedure, but, unlike the Panels, s/he has a considerably more public profile and is accorded statutory powers. These powers, however, relate to the Commissioner's ability to investigate rather than to any subsequent recommendations. Compliance with his/her recommendations by those working under the Act is not obligatory. Further to this, the lack of administrative and financial independence of the Office from the Department is seen as a hindrance to both the efficacy and credibility of the Office (Mason, 1992, pp.180-182), a point repeatedly reiterated in the Commissioner's Annual Reports to Parliament. None of the seven recommendations of the Mason Report has been implemented, nor have the various Commissioners had a

positive response to their repeated calls for independence for the Office<sup>22</sup>. Similarly, calls from both quarters for extended funding of the Office have not been successful.

### ***Conclusion***

The Act, then, has brought about innovative changes in New Zealand's approach to the care and protection of children and young persons, and to young offenders. The strictly welfare approach to both these issues in the Children and Young Persons Act 1974 has been replaced with a return to a justice model for young offenders, though with an emphasis on avoiding court proceedings. The justice model itself, however, has changed - a restorative philosophy of justice replaces the retributive philosophy, and imbues the FGC process, itself an innovation in both a strictly judicial sense, and in its acknowledgment of cultural diversity. Definitions of what constitutes harm to children and young persons have been extended to include emotional and psychological abuse or neglect, and the wellbeing of the child or young person has been recognised as intricately connected with the family group within the Act's stated objectives and principles.

A number of avenues for monitoring the policies and practices developed under the Act are provided within the legislation - Care and Protection Resource Panels, the Director-General of Social Welfare and the Commissioner for Children are all charged with this responsibility. Community representation in the processes and practices under the Act is implied in both the FGC process and the appointment of Care and Protection Resource Panels. The Act does much to improve the status and treatment of children and young persons in general, and those who come to official notice in particular.<sup>23</sup> There are aspects of the legislation, however, which leave some parents - and their children - in an invidious position. A considerable portion of the problems isolated is related to the adequacy of funding, which ultimately determines success or failure in achieving the intent of the legislation. Other problems emanate from the dual role expected of many of those charged with implementing the Act. Conflict between these roles acts to the disadvantage of parents, since the professionals are required to observe the paramountcy principle. Where parents and professionals are in disagreement, the empowerment of parents promised by the aims, objectives and principles of the Act is considerably compromised. Where parents and children are in disagreement, the authority of parents

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<sup>22</sup> A Bill proposing the independence of the Office was still in Select Committee when Parliament rose for the 1999 general election.

<sup>23</sup> It is acknowledged that aspects of the legislation and its implementation can, and do, pose problems for children and young persons. These will not be addressed here - the intention here is to add a parental perspective to the discourse.

is of secondary consideration to the (undefined) interests of the child. Parents also face disadvantages under the youth justice provisions of the Act. Where children and the law collide, parents face sanctions which are not applicable to the state and the state may take actions not available to parents as a means of holding their offspring accountable. Furthermore, while the Act provides for the monitoring of families who come to notice and enables sanctions against parents found to be wanting, professionals who act contrary to the intentions of the Act are under no obligation to comply with the recommendations of the various monitors of practices under the Act.

All this, of course, needs to be considered in the context of the social, political and economic climate in which the legislation has been enacted. The (relatively) few problematic aspects of the legislation can be vastly extended and exacerbated by prevailing attitudes both in the wider society and in those directly involved in implementing the Act. The manner of the Act's implementation is dependent on the impact of economic policy, social perceptions of parents and parenthood and juvenile behaviour, current ideology and the ways in which these affect Departmental policy. The ramifications of this for parents are dependent also on the priority ascribed to each of these factors. The operation of the Act in recent times is given some expression in the experiences of the parents who participated in this research. These experiences are recounted and analysed in the following chapters.

## CHAPTER SIX

### Parents' Experiences of Current Policy and Practice

This chapter examines further the difficulties experienced by Nita, Hamish and their families, as presented in the scenarios which open this thesis. A synopsis of both families' experiences introduces the private face of parenting and demonstrates a number of the difficulties faced by all the families who contributed to this project. These accounts enable a better understanding of the isolated, decontextualised accounts common to the public face of parenting (as presented in chapter one) and allow an insight into the ways in which the public face of parenting produces misconceptions which serve to further undermine the *mana* of parents. The accounts also provide indicators of the aspects of the private world of parenting from which the eventual themes were derived. As the chapter progresses, all the families who participated in the research are introduced. This occurs as the families' experiences with early problems are recounted along with their interactions with the informal and official agencies from whom help was sought. The chapter investigates their attempts to elicit support from families, doctors, schools and police, noting both positive and negative factors and outcomes.

The dominant and enduring impression furnished by the interview data is frustration and this is introduced, noting its implications in, and inter-relationships with the three main themes derived from the interview data - ignorance, isolation and impotence. Each of these themes is defined, with the standard dictionary definitions expanded in a manner which makes clear how each term is to be understood in the present context. These definitions are further elucidated as this, and the subsequent, chapters proceed to reveal the lived experiences of the parents. These experiences are set within the context of general parental expectations of the life course of their parenting careers, which in themselves provide a partial explanation of some of the difficulties faced when the life course deviates from those expectations. The chapter begins, however, by noting an expected, but absent, theme.

#### *An Exception*

It is fitting, if a little unorthodox, to begin the interpretive dimension of this thesis with an unspoken theme, a theme notable for its absence in the interview transcripts, a theme which, under the circumstances, might at times have been understandable - even forgivable - but which none the less did not surface. Without exception, there is



amongst the parents what might best be termed an “absence of malice” towards their children. These are caring parents. Their primary concern is to obtain help for their children in hopes that a healthy adult might emerge from these fragile moments. These are passionate parents, passionate about parenting, passionate about their children. Some of them have been hurt deeply by their children, some have been variously irritated, frustrated, embarrassed or shamed by their children, but none is seeking vengeance or interested in recriminations in regard to their children. These are not perfect parents, nor parents who think they are perfect. Their stories are poignant, depicting the frailties of both parent and child. Their concerns are real, immediate and at times overwhelming, yet still they seek solutions rather than punishment. Where a desire for accountability on the part of the child is voiced, it is not for the purposes of punishment, but because accountability is required, because it is fitting, because it is a necessary point on the path to a healthy adulthood.

This is not to say the parents are never angry with their children. These are human parents, and humans possess a range of emotions of which anger is generally perceived as one of the more negative. This perception rests on the common association of anger with violence, abuse, malice and revenge - or some similar collection of negative outcomes. Little consideration is given to possible positive outcomes - the salutary effect of an angry response on the recipient of the response, or the added strength that results when a victim's fear turns to anger, for example. Displays of anger are frequently intertwined with allegations of abuse - if not physical, then verbal or emotional. Consequently, there is a tendency to avoid displays of anger, and to expect others to do likewise. Personal guilt for non-compliance with this expectation presents an added complication for some parents.

Clearly, repeated instances of problematic behaviour (or in some cases, even just one) will engender disappointment, frustration, distress or an angry response. Some parents demonstrate remarkable composure at times of extreme stress, others less. While distance and detachment allow the less composed responses to be viewed as normal and understandable, though sometimes inappropriate, it is difficult for parents in crisis to avoid the feelings of guilt which accompany fears that their own outbursts might be - or might be construed as - abusive. But anger is not malice. The former can be part of a constructive process, the latter never so. In telling their stories, the parents convey anguish rather than anger when discussing their children's behaviour, providing stark evidence of that process in motion. Their initial anger does not translate into malice, but

is reflective of their concern, disappointment, frustration or distress. The outbursts may at times be inappropriate or untimely, but there is no reason that children or young persons at some point should not be made aware of this consequence of their behaviour. Anger, therefore, is sometimes present in some of the incidents recounted in the interviews, but it is not an enduring feature of the parents' demeanour, and is not associated with malice in regard to their children.

### ***The private faces of Nita's and Hamish's families***

The depictions of the two families in crisis that open this thesis require a more holistic representation. The choice of these two scenarios was somewhat arbitrary. These families are no more and no less important than the others who participated in this research. They do, however, provide testimony to multiple factors pertinent to the experiences of all the parents to a greater or lesser degree. The negative impressions generated by the public accounts of the families is tempered by an insight into the difficulties inherent in the private world of parents struggling with offspring who are indulging in *at risk* behaviours. The apparent indifference and inadequacy of the parents, which is both explicit and implicit in the public accounts, is supplemented with accounts of the efforts and perspectives of the parents. These private faces of parenting bring into question the accuracy of the public accounts and accentuate their partial nature. Some aspects of the private face of parents assist in explaining the actions depicted in the public face. For example, Tom's reluctance to retrieve Hamish from the police cells becomes less a matter of indifference and more a matter of attempting to force some official action. Other aspects are not adequately explained by the private accounts. The private accounts provide no understanding of the reasons for police inaction regarding Hamish, for example. In a similar manner, while Michelle's private struggle presents a vastly different persona from that depicted in the public account, her private story does not explain the actions of the professionals with whom she came in contact. The actions of the professionals are seen to be predicated solely on Nita's versions of events and circumstances. While this explains specific actions taken in regard to Nita, it does not explain the failure to consult with, and seek information from Michelle. Failures such as this receive greater consideration in the analysis that follows. Not all parents experienced all the problems depicted, and Hamish and Nita's stories do not include some of the problems experienced by other families. None the less, the stories provide a substantial exposition of the private faces of parents in crisis and how these differ from their public faces.

### *Nita's family*

Nita's mother, Michelle, has been a single parent for more than a decade, raising four daughters on her own. The accidental death of her eldest daughter several years ago resulted in Michelle also taking responsibility for the custody and care of her ten-month-old grandson. Her third daughter, Nita, has caused Michelle concern for many years, prompting her to seek help initially from Nita's primary school. Although there was agreement that problems existed, help was not forthcoming. Michelle could find no alternative assistance and Nita's behaviour became steadily worse (including truancy, absconding, vandalism, drunkenness, theft, promiscuity, drug abuse and physical and verbal abuse of her mother and siblings), culminating in the serious criminal charges which brought her to Court. By this time Nita was well known to both the police and social workers, and Michelle had repeatedly pleaded for various types of assistance and argued against specific decisions in regard to Nita's placement and treatment in the intervening years. She was uniformly unsuccessful in her efforts, with the decisions of professionals relying on information imparted by Nita. Despite Michelle's denials of violence and abuse and her other daughters' support of her in this, Nita's stories determined the actions of the professionals.<sup>1</sup> Against Michelle's wishes, Nita was sent to live with her father in another city, as a result of which she was raped and sodomised by her father's friend. Further deterioration in her behaviour followed and, unable to accommodate her adequately, the professionals insisted Michelle retrieve her. By this stage the police, having witnessed her destruction of their own premises, had joined Michelle in requesting some sort of psychiatric evaluation for Nita. It has never been undertaken.

When Nita's criminal charges came to Court, Michelle's parenting was brutally criticised by the Judge, his comments based on the reports of the professionals involved with Nita. At sentencing a week later, the Judge apologised to Michelle and withdrew his previous criticism, turning it instead towards the professionals. To this day, Michelle does not know what brought about this change, though prior to the court case she had been approached by the police to give evidence for the prosecution. At that late stage, they

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<sup>1</sup> The hole in the lounge wall was the result of a drunken attack by Nita during which she drove her mother's head into the wall; domestic violence was not a feature of the household, other than that which Nita indulged in; constant fights between her parents were impossible, given that Michelle had been on her own for more than a decade.

had discovered evidence of Nita's lies and manipulation<sup>2</sup> - and were aghast at the complexity and duration of the deceit. Michelle declined their request, but was hopeful that Nita might finally receive the assistance she needed. While the emphasis shifted from Michelle's parenting abilities to Nita's behaviour, a combination of Nita's increasing age (allowing child welfare professionals to withdraw) and the decision to ignore Nita's non-compliance with her sentencing conditions, has resulted in Nita living in a flat under supervision, but without what Michelle feels is necessary evaluation and treatment. Although Nita has not faced further criminal charges, she continues to engage in anti-social behaviour and remains prone to violent outbursts.

### *Hamish's family*

Tom and Frances are both professional people with a high income and three sons. Their second son, Hamish, first came to official attention at the age of fourteen, though his parents had been concerned about his behaviour prior to this. A privately arranged psychiatric evaluation found no psychotic tendencies and it was decided that medication (Prozac) would assist Hamish through his difficult adolescence. Despite the medication, Hamish's worrying behaviour continued. While truancy was not a problem, there were other problems at school. The school delayed communicating problems to Tom and Frances until they had become extreme. While much of this related to behaviour and attitude, there were also concerns regarding racism and fighting.

Hamish had just turned fourteen when his parents contacted the police over his absconding, which was invariably accompanied by alcohol and often by drugs. Though obliging and happy to return Hamish to his home, there was little else the police could do, since there was no evidence that Hamish had broken any laws. When Hamish was found inebriated on the streets (a regular occurrence), the police were reluctant to use physical force if Hamish refused to co-operate. Tom and Frances attempted to cut off Hamish's source of alcohol by visiting the retailers supplying him, showing the owners Hamish's photo (and on one occasion identifying Hamish himself in the shop), but to no avail. Neither the police nor the city council licensing authority proved helpful in the short to medium term, though eventually, in the face of multiple problems, the retailer causing most concern was spoken to by the police and ceased selling alcohol to Hamish.

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<sup>2</sup> Nita, claiming to have been beaten by her mother, had sought help from an elderly woman who telephoned the police to report the incident. Nita made a statement to the police reiterating the story she had told the woman, by which time the woman had noticed her purse was missing. It was found on Nita's person and initiated a reassessment by police of their interactions with Nita.

The victory was small, however, and Hamish became increasingly aggressive and intimidating. In desperation, Frances began ringing helping agencies in the yellow pages. The National Society on Alcoholism and Drug Dependence (NSAD)<sup>3</sup> were sympathetic and arranged a consultation with Frances immediately. They provided counselling for both addicts and co-dependents, but were unable to help with the immediate problem of controlling Hamish's behaviour or providing residential care for him. Because of his young age, residential programmes were reluctant to take him and Frances turned her attention to agencies dedicated to children and young persons. A phonecall to CYF<sup>4</sup> was unproductive (the request for assistance being declined on the grounds that Hamish was not abused or neglected). Tom and Frances's association with Toughlove<sup>5</sup> assisted in minimising the effects of Hamish's behaviour on his parents and informed them of various legal rights, but Hamish's behaviour continued to deteriorate.

Through Toughlove they discovered that they were not obliged to continue to have Hamish at home and matters came to a head when he was picked up by the police one afternoon. A drunken Hamish abused and intimidated his mother when the police took him home, and he subsequently attempted to assault the police. It took two police officers to subdue and handcuff him. He was taken to the police cells and Tom, hoping this might have a salutary effect on Hamish, made a conscious choice not to collect him until late that night. Again they sought assistance from CYF, and again they failed - despite the obvious distress of both parents, fears for their physical safety and the availability of corroborating evidence from the police and drug and alcohol professionals. Struggling alone again, Tom and Frances managed to have Hamish accepted into rehabilitation at Odyssey House<sup>6</sup> in Auckland. There was a substantial waiting list, however, and their problems were immediate. Continuing their search, they found an

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<sup>3</sup> NSAD is a charitable trust, established almost 50 years ago and operating in the North Island only. It provides residential and outpatient treatment for substance abuse with the aim of treating and supporting individuals (and their families) who are dependent on, or at risk from, alcohol and drugs.

<sup>4</sup> At the time of writing, New Zealand's official child welfare agency was named the Department of Child, Youth and Family Services (CYF) and this name is used throughout this thesis, other than where the historical analysis required otherwise. The interviews were undertaken prior to the change to this name and consequently the parents commonly refer to "CYPS" in their interviews, referring to its name at the time of the interviews.

<sup>5</sup> A national parent support organisation which focuses on assisting parents in finding ways to manage their offspring's behaviour in a manner that minimises its effects on parents and family and encourages proactive, rather than reactive, parental behaviour.

<sup>6</sup> A therapeutic community dedicated to rehabilitation of those who abuse drugs and alcohol or display psychological or personality disorders. Established eighteen years ago, the service has a separate youth facility catering for those aged twelve to seventeen years and serves those at the severe end of the spectrum.

opportunity for immediate assistance with The Glade<sup>7</sup> residential centre, also in Auckland. Both residential facilities require a substantial financial commitment, which is met by Tom and Frances. They have told Hamish he is not welcome at home unless he attends the programme. The ultimatum had the desired effect and at the time of the interview Tom and Frances were hopeful that Hamish would complete the programme.

It is evident from these synoptic accounts that both families have taken steps to remedy their offspring's behaviour, have persevered in these attempts and have encountered considerable difficulty in influencing - or even accessing - professionals in the child welfare sector. They have been involved in, and willing to be accountable for, their children's behaviour, though they have not always been apprised of the nature or extent of their child's problems. Though at first relying on their own skills to remedy problems, they eventually acknowledged that they needed help, and sought it. Both families display an initial ignorance of the child welfare sector and the services available, relying on information from the professionals to rectify this. The isolation engendered by the lack of familiarity with the territory was not always alleviated by contact with professionals, with denial of access and misinformation both implicated in the parents' continuing ignorance, isolation and impotence. Where assistance was declined, there was seldom advice as to where the families might find assistance. While isolation and ignorance themselves induce impotence, alleviation of these former problems does not ensure alleviation of the latter. Where assistance was accessed it was frequently ineffective or a source of further concern for the parents, and the parents found themselves at odds with the professionals and unable to influence decisions. Consequently, their struggle extended beyond that of finding ways to assist their *at risk* offspring and involved them in conflict with the very professionals from whom they sought assistance. Impotence also featured in the attitudes and actions of some of the professionals, with the parents encountering frustration amongst the professionals in regard to the difficulties of holding their children accountable under the law. The types of experiences they recount are replicated in the stories of the other parents in this research.

### ***Discerning themes and generating theories***

It was clear early in the data collection stage of this research that a number of experiences and reactions were common to all the subjects. Transcription of the audio tapes reinforced the impressions imparted by the interviews themselves. Initial readings

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<sup>7</sup> A youth facility established by Father Felix Donnelly, similar in purpose to Odyssey House.

of the data evinced an overwhelming sense of frustration as a feature of the parents' experiences in a number of broad areas and this characterised both their lived experiences and the tone of the interviews. Determining the factors which fostered the frustration provided a basis for the analysis of the interview transcripts. Despite the different particularities of the cases, there was a clear indication of common problems emanating from the parents' attempts to address problems themselves, from their attempts to seek assistance, from their interactions with various professionals and processes, and from the measures adopted to modify or prevent the *at risk* behaviour of their offspring. These shared problems assisted in identifying the three main themes discerned through further analysis of the data - ignorance, isolation and impotence. These distinct, but interlocking, themes, were in turn reflective of, and contributed to, frustration. While frustration is particularly pertinent to the theme of impotence, it is also significant within the other two themes. Although the links with isolation and ignorance are less direct, it is clear that both these conditions may invoke frustration, and the definitions for these terms given below make the connections evident. Furthermore, there is a sense in which all four terms interconnect and overlap, a sense in which frustration and the three other major themes can act together in a self-reinforcing cycle. Thus ignorance may cause impotence or isolation, isolation may exacerbate ignorance or impotence, impotence may increase isolation, and all or any combinations foster frustration. The association between frustration and each of the three major themes needs to be borne in mind throughout the analysis that follows.

While these themes are derived primarily in regard to the parents, they are also applicable to the professionals, processes and children or young persons at various points. The themes noted are possessed of significant negative connotations. They are not intended as descriptions of the parents - or others - *per se* in this negative sense, but describe general conditions within the realm in which the parents' experiences are enacted. That said, at times they do afford a direct description of the parents or other key actors, but again, context is crucial. There is a strong sense in which the descriptions are applicable only to the extent that the characterisations stem from factors which are imposed from without. That is, parents' impotence, for example, results more from external constraints on the parents (legal limitations, for example) rather than from any lack of internal capacity for effective parenting. Thus the characterisation of parents as impotent, or isolated, or ignorant is not a reflection on their personal capacities, but on how those capacities are affected and frustrated by other factors.

## ***Definitions***

***Frustration:*** This term which underlies the three main themes has obvious links with the definition of impotence in the sense that the definition of “frustrate” relates to the “action of mak(ing) discontented through inability to achieve one’s desires ...make ineffectual ... counteract ... invalidate.” Earlier meanings attributed to the term add notions related to being “deprived or destitute of hope (or) purpose ... unavailing ... defeated”, and the derivation is shown to be from the Latin term for in vain (New Shorter Oxford Dictionary, 1993, p.1037). Like the other major themes, the term “frustration” is used here with a number of nuances not encapsulated within the formal definition. Implicit in the first part of the definition is the notion of outside forces impeding, interfering with, neutralising or restraining the achievement of a given end. In the first instance this external influence is likely to relate to the unfamiliarity of the territory, but may also be extended to encompass the actions and knowledge of other people, organisations and processes. This suggests a certain polarity or friction wherein the antagonism or opposition between the two may lead to, or exacerbate the isolation of the parents. This isolation will serve not only to perpetuate the parents’ ignorance, but also to intensify their impotence and frustration. Both the effects of external forces and the subsequent isolation act together to render the parents ineffectual, blundering or thrown off balance. That is, their efforts are frustrated by their own and others’ (lack of) knowledge and actions. A further dimension of the term that needs to be recognised is that concerned with the feelings engendered in the parents as a result of the failure of their efforts to achieve their purpose - they are left disconcerted, disappointed and disheartened. Such feelings of frustration present an additional barrier to be overcome, providing yet another test of the integrity of the parents’ commitment to their children.

***Ignorance:*** The New Shorter Oxford Dictionary defines ignorance as “lack of knowledge” and ignorant as “lacking knowledge ... unaware, unknown” (p.1307). Other more negative definitions are also given, but for the purposes of this analysis the term needs to be understood within less judgmental parameters. It is to be understood here as relating to inexperience, unacquaintance and sometimes bewilderment, with the parents finding themselves in territory which for them is previously unexplored and uncharted. They are encountering situations of which they have been unaware and unapprised, and involving matters in which they are unversed, uninformed and unversant and about which they are unenlightened and sometimes misinformed. Also relevant to the sense in which the term is to be understood here are notions of privacy and confidentiality which



foster a sense of secrecy and can form part of a process of mystification surrounding the organisations and processes within which the parents find themselves. Additionally, ignorance is not confined to the parents, but can also affect the agencies and individuals to whom the parents turn for assistance, particularly in instances involving incomplete knowledge on the part of these agencies and individuals.

**Isolation:** This term is defined as the “action of isolating something or someone; the fact or condition of being or having been isolated; separation ... solitariness ... the separation of a person or thing from the normal (social) environment or context.” Someone or something “in isolation” is defined as “considered singly and not relative(ly)” and “isolate” is defined as “place or set apart or alone; ... detached ... subject to strict quarantine”, (New Shorter Oxford Dictionary, 1993, p.1425). Each of these understandings is relevant here, but again the definition as it stands is insufficient to convey the full sense in which the term is used. Notions of dissociation, desolation and disconnection, of insularity, seclusion and estrangement need to be added. While these are aspects that may come from within, other aspects are imposed - exclusion, ostracism and scission. Whether in regard to their children or to the organisations and processes which they encounter, or to the wider community, parents develop within this theme feelings of being adrift, alien, remote, unconforming, without reference and unaccompanied. There is a sense of fracture or cleavage in which they sense themselves as being incidental and severable, a sense of self as separate and a subsequent polarisation between self and others.

**Impotence:** The first of the formal definitions for this term describes the condition as “lack of strength or power; helplessness; weakness; feebleness”, while the second definition refers to the biological sense of the word relating to sexual dysfunction (New Shorter Oxford, 1993, p.1325). While not strictly applicable here, it none the less provides an apt analogy. The definition of “impotent” adds the dimension of ineffectiveness to the understanding of the term. A lack of power is central to this theme, along with its connotations of incapacity, paralysis, failure, ineptitude, inadequacy and incompetence. These features are not descriptive of the parents’ inherent capacities, but result from parents being undermined, invalidated, devitalised, disqualified, unnerved and exhausted, rendering them rudderless, vincible and inoperative. That is, the parents are rendered impotent as a result of their efforts being frustrated from without, rather than within. Similarly, they may be viewed by the professionals as inadequate or inept, treated accordingly and in the process be altered to fit the profile. They are then left in

an untenable position which determines them as unfit and the whole process begins to repeat. As with the other major themes, impotence is used not only in relation to the parents, but also in relation to the organisations and processes experienced by the parents.

These, then, are the understandings that imbue the analysis of the parents' stories. In the interests of clarity, the results are presented in a broadly linear fashion, following the families as they encounter challenges in their offspring's behaviour and negotiate the repercussions of this. The three themes might also be introduced in a linear manner, with ignorance characterising the earlier periods, followed by isolation as problems unfold and impotence as attempts are made to address these problems. The actual experiences of the parents are not as neatly packaged, however. The complexity of lived realities is inherently difficult to transpose to the academic process and in the commitment to clarity a degree of that complexity is lost. Inevitably the themes overlap, a process compounded by the inter-relationships between the themes.

Ignorance of the law, for example, can inhibit parental responses for fear of possible legal ramifications (paradoxically, cognisance of the law can have the same effect). Conversely, it can operate to opposite effect in that some parents may undertake actions that are ultimately deemed legally unreasonable and the parents may lose custody of their offspring as a result. In the first instance parents are rendered impotent, while in the second they also become isolated from their children and possibly from the wider community as a result of any charges against them. Problems related to the law can also be less direct. The Privacy Act can serve to isolate parents in that communications by their offspring to some professionals are privileged, which continues the problem of ignorance experienced by some parents. While being the last to know can be problematic in itself, the matter is further complicated by the possibility that the parents will never know. That is, a tension exists between the parents' need to know exactly what they are confronted with and the child's right to privacy. Thus, while counsellors or social workers may be privy to information and act on it, parents are excluded, isolated from the problem, the child, the process and the decisions taken to address the problem. The three themes and the various aspects of child welfare to which they apply, then, represent inter-relationships and dynamics far more complex than is immediately apparent.

The themes should also be viewed as dynamic in a further dimension. It is not the case that each is a problem that, once recognised, can be resolved and forgotten. All three are

relevant in what might be considered an initial condition - an initial ignorance in regard to specific behaviours, for instance - and a continuing condition, where continuing ignorance, isolation and impotence are also problematic. This continuing condition is not necessarily related to a failure to address initial ignorance, isolation or impotence, but can arise independently as the families interact with the agencies and negotiate the processes of the child welfare sector. Each step is potentially new terrain, and as such, the parents are again subject to the same sorts of frustrations engendered by their initial condition. All three themes recur throughout the parents' experiences, albeit in different forms and circumstances. Given that the themes derived here are not intended as criticisms of the parents but rather tend to reflect the position they find themselves in, it remains to examine the origins of their position and how ignorance, isolation and impotence are manifested.

### ***Early problems and avenues of assistance***

Most parents imagine that, though there may be problems in raising their children, most will not be so great as to require intervention or assistance from outside the family. In imagining the likely course the family's life will take, most parents take comfort in the knowledge that should there be a health problem, for example, they can seek assistance from the family doctor. Should the problem be more serious, the doctor may refer them to the network of hospitals and specialists that exists. For many, this is unknown territory and they are reliant on their first point of contact - the doctor - for direction, information and counsel. Once referred, they are in turn reliant on the specialists and various other medical professionals for the same reasons. Two aspects are important here. First, there is a clear knowledge of the first point of contact - minor or indeterminant ailments require the services of a general practitioner, and more serious or critical episodes require specialist or emergency services. Secondly, there is an awareness that extended services exist, that specialist or critical care is available, and that it can be accessed through the first point of contact.

Where the problems are behavioural rather than medical, the first point of contact is less clear, in part because such problems are less common and the appropriate course of action is therefore less a part of the public wisdom. All children will at some stage contract a moderately severe illness. As a result, the appropriate response is very much a part of the public common sense in a way that responding to behavioural problems is not. In other words, until the problem is encountered, most parents are ignorant of the appropriate steps to take. A second complicating factor is the wide variation that applies

to behavioural problems. The type of behaviour exhibited is likely to be used as a guide to the first point of contact. More precisely, the type of behaviour considered sufficiently aberrant to require a formal response (since there is usually a history of escalation from more minor aberrations) may dictate which particular service parents might attempt to access. Accordingly, non-attendance at school would suggest Truancy Officers be contacted, while for drug use or absconding the logical response is to contact the police. The decision is not clear-cut however, and any or all of these situations might equally be referred to the school counsellor, a private therapist, a community social worker, CYF or a general practitioner. Thus the appropriate response - the first decision as to the best initial point of contact - is itself in the realms of unknown territory.

Given that the parents' ignorance is not an issue until faced with a crisis, it makes sense to begin with the first steps taken by the parents when faced with a crisis. As is to be expected, the families initially attempted to manage the problems themselves, sometimes in the face of extremely challenging behaviour. For some, this was a matter of ownership of the problem, while for others it reflected a lack of knowledge regarding the existence of problems or, when aware of problems, where to find assistance.

But one of the things we found - because we'd sit and talk and go to a restaurant or on the bike and tootle around or whatever - saying "where can we go next?" and there was real trouble identifying where you could get help. (Tom and Frances)

No, we didn't (seek assistance). Just tried to cope with it ourselves. (Mona and Dave)<sup>8</sup>

I didn't know where to go. I didn't understand what was happening. (Cathy)<sup>9</sup>

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<sup>8</sup> Mona and Dave have both had previous relationships, resulting in four children between them, though the two daughters resulting from their own relationship have never lived with their two brothers. They live, on a good income, in a town in rural Waikato. Their younger daughter, Anna, first came to official attention when she was fifteen. After an argument with her mother one afternoon, Anna, who did not have a licence, took her mother's car and collected some friends for a joy ride. Dave intercepted them late in the afternoon, at which point Anna absconded on foot. When she failed to return home by 7 o'clock that evening, Mona and Dave began ringing her friends for information. Eventually they discovered that Anna had gone to the police station to report physical and sexual abuse by her father. The police were reluctant to divulge any information, but a Youth Aid officer eventually told them that Anna had been taken to Hamilton.

Mona and Dave were unhappy with the friend with whom Anna had been placed, but could get no information about whom to contact. Anna was now under CYF care and Mona had great difficulty in accessing the social worker the following Monday. Unable to make any progress, Mona contacted a rural family support organisation, who advised her to assemble as much support as possible. The extended family responded to the call and eventually CYF agreed to allow Anna to stay with an aunt in Auckland. She has since returned home. Apart from two phonecalls, there has been no further interest from CYF. Anna is receiving privately arranged counselling, as are Mona and Dave. While her behaviour continues to be difficult, the family is adamant that they will never seek help from CYF.

The ignorance experienced by the parents when first confronted by problems serious enough to warrant extraordinary action engendered isolation in itself. This was not, however, the parents' first experience of isolation in regard to their children's behaviour. Current legislation emphasises the involvement of the extended family, a source of assistance that might be tapped more readily than official agencies and a logical first step for parents in crisis. Again, there was a range of attitudes and experiences present in the parents' stories. As the misbehaviour escalates there is an initial tendency on the parents' part to be reluctant to mention the problems to friends and relatives. This isolation is clearly self-imposed and easily understood. The reluctance stems from a combination of factors including the wish to spare the child from an unfavourable label for what is (hopefully) nothing more than a phase, a reluctance to burden friends and relatives with problems with which they are not directly involved, and the fear that others will view the child's misdemeanours as reflective of poor parenting. When the child's misbehaviour becomes entrenched or escalates significantly, close friends and relatives may then be consulted, though this is neither universal nor, indeed, possible for some.

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<sup>9</sup> Cathy was raising her only child, Trixie, alone for many years, though she now has the support of a partner. Trixie's father is not averse to contact, but is heavily involved with drugs and this tends to exacerbate, rather than assist, matters. Trixie first came to notice at intermediate school, when the Public Health Nurse became concerned at her sexual activity. About the same time she came to CYF<sup>9</sup> attention because she was running away, usually to her father. Cathy reluctantly agreed to Trixie living with her father, but became alarmed at the continuing deterioration in her behaviour and sought assistance from a counsellor she was seeing. The counsellor notified CYF, who were totally uncommunicative with Cathy until she caused a fuss. Chapter Nine presents some of the problems encountered by Cathy as she and the professionals worked towards a positive outcome for Trixie. Trixie was suspended for drug use at school and put on a bus home. She did not arrive and was missing for a month. She rang Cathy periodically, but would not reveal her whereabouts. Kerikeri police eventually found her and rang Cathy, who travelled immediately to collect her. Trixie, however, again absconded - this time from the police, who stated they were legally unable to restrain her. She was eventually detained by Whangarei police and returned home to Cathy. She had assaulted an officer, but no charges were laid. Cathy's continuing pleas to CYF to undertake a psychological evaluation of Trixie were unsuccessful, and Trixie refused to attend any sort of counselling. Constant changes of social workers were a source of frustration for Cathy and she felt Trixie was able to manipulate many of them. Trixie returned to school in Whangarei and CYF assisted in finding her accommodation in a private home. Still only fourteen, Trixie became involved with an older male and her foster mother asked the police to intervene. They would not. Trixie assaulted a fellow student with a knuckleduster and was expelled. A second school was no more successful, Trixie continued to abuse drugs and alcohol and left the foster home to move in with her boyfriend's family. This was unsuccessful, though Cathy does not know why, and Trixie and her boyfriend moved to his uncle's house where there is no electricity and primitive living conditions. Trixie was pregnant and received the Unsupported Child Allowance, but Cathy lost contact with her for several months. A month prior to the interview, Trixie contacted her mother. She and her partner have visited Trixie and Cathy is fearful for her health. They are unsure if Trixie is still abusing drugs and alcohol while pregnant, though there is no doubt that her boyfriend does. They also suspect there may be an element of physical abuse in the relationship. Despite her plight, CYF are no longer interested in Trixie. Her case, they say, is not serious enough to warrant intervention.

Certainly those families who fall under the auspices of the Act are encouraged to involve extended family, but again, for some families this is not an option - for a variety of reasons. Isolation from extended family and the help that may be forthcoming is, for them, a matter of circumstance rather than choice.

Zoe's<sup>10</sup> situation demonstrates both the frustration emanating from suggestions that family be approached for help and the nature of some of the variables that affect the availability of assistance from extended family.

Okay - from my family, my mother's a manic depressive who's in and out of mental institutions, my father's just had a quadruple bypass, my sister's an alcoholic and my brother lives in Te Aroha and he's got a young wife who's a very soft and sweet thing. Now if my son turned round and told her to "get fucked" she'd be in tears and running out the door. So my family can't help. ... At work I think it was two weeks before the girls at work knew that Stephen wasn't living at home anymore. (Zoe)

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<sup>10</sup> Zoe and her partner have two children - Stephen, and a daughter four years younger. They have an average income and live in a small Waikato town. Stephen had caused his parents concern for some years and they had sought various private remedies for his violent outbursts. Truancy and absconding became problems. At thirteen, Stephen's outbursts had become unmanageable and after an argument over the use of the telephone one night, he began pushing his mother around and set about breaking windows, appliances and fittings. The police responded twice to their calls for help that night, but would not remove Stephen. At thirteen, he could not be charged with any offence and the police were unable to accommodate him for the purpose of temporary respite. After the second visit from the police, Stephen absconded and continued to do so repeatedly.

Zoe unsuccessfully sought help from CYF. Stephen's behaviour, despite truancy, absconding, drug and alcohol abuse and violence, was not severe enough for their intervention and they suggested Zoe approach extended family for help. Health problems foreclosed this option. Zoe found the school to be uncommunicative and judgmental of their parenting abilities. She joined Toughlove and found that to be educational and supportive. Through a friend, Zoe arranged for Stephen to board for a short while with an elderly couple who lived locally. CYF visited Stephen at his new home and were happy with the arrangement, though it was causing Zoe and her husband considerable financial distress and the foster parents intended that the arrangement be only temporary. A Family Group Conference was arranged some weeks later and CYF insisted Stephen return home and start counselling. Stephen never attended the counselling, but returned home and refrained from further violence.

CYF warned Zoe that Stephen could not be left at home during the school holidays while his parents worked. Stephen would not agree to having a sitter, though Zoe found a partial solution by arranging part-time work for Stephen with a local tradesman. In the absence of any support from official agencies, the family has resorted to compromises about which they are less than happy. Stephen is now fourteen - still too young they believe, to be involved with alcohol. They allow him to drink on weekends because to do otherwise will result in him absconding and all the problems that go with that. Similarly, anxious to preserve honesty, Zoe knows that if she bans alcohol and drugs completely, Stephen will simply become evasive and underhand. Consequently, she has his assurance that he will not use drugs during the school week, despite its ready availability at school, and though she will not tolerate it at home, she knows he indulges on weekends. Should there be further trouble, Zoe views her husband and Toughlove as her only viable sources of assistance. Zoe's experiences have inspired her to work towards providing a one-stop shop for parents in need, in the hope of preventing other parents experiencing the frustrations encountered by her own family.

Lack of family support or negative outcomes when enlisting family support is by no means universal, however. Michelle consistently received stalwart support from her mother, her other children and close friends.

... my family and friends - the people who knew her behaviour and ... because those sort of people kept you from going over the edge really. You know, because you knew that they believed you even if those people who were (professionally involved) didn't. (Michelle)

Reluctance to involve family and friends is reflected in Tom and Frances's initial actions, though their eventual actions demonstrate the positive effects of disclosure - along with the difficulties of relating to people who have not themselves experienced the problems.

I've had comment from some people that it took them a long time to tell other people that they were having these problems. They tried to hide it for some considerable time. I tried to hide it from my parents, but like everything else I've ever told them in the end, they just took it in their stride. Old people, wonderful! And they've done wonderfully well to only be there when we want them. They really have been good. We talk to friends, but unless they're actually experiencing it, it's very difficult. ... and once people knew, it made it easier, because if you were having a bad day you didn't need to cover up. They would accept the fact that you were upset. (Tom and Frances)

On the other hand, enlisting the assistance of extended family can place them at risk, and the initial reluctance of the parents to seek external help can be felt equally as keenly by extended family, as Pauline<sup>11</sup> discovered.

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<sup>11</sup> Pauline is married, with an average income and two daughters. Her younger daughter, Carla, had caused her concern for some time before coming to official notice at the age of thirteen. She approached the school for assistance, but no solutions were found. At thirteen Carla was caught shoplifting. The police remonstrated with her and she was banned from the shop for two years. Youth Aid visited some time later, but no further action was taken. Carla began taking drugs, though never at home, and Pauline was unsure what sort of drugs were involved. The school was aware of drug-taking in the school grounds but unable to curtail it. Carla's behaviour deteriorated further. Pauline approached the school to explore possible punishments other than detention, which had little effect on Carla. The school was not willing to consider alternatives and there were no truancy officers in the area. Carla had access to the school counsellor, though Pauline doubts that she ever visited her alone. Carla first ran away from home when she was fourteen. Her parents tracked her down and sought assistance from the police when she refused to come home. The police informed them that there was nothing they could do. Carla stayed at that address for a few weeks, continually refusing to come home. A second call to the police following further trouble again produced no result, despite a call to CYF. Drug abuse was Pauline's main concern. CYF informed her that the situation was not considered serious enough to warrant intervention and there was nothing available as a means of removing her from the group with which she was associated. The school holidays were approaching and again Pauline sought her daughter's return. Carla complied, though the reasons remain a mystery. Her drug use abated, which Pauline suspects was due to peer pressure from the group of friends associated with her new boyfriend. They also sought help from the Open Home Foundation, to whom CYF referred them. A counsellor they contacted there visited Carla at home and appeared to have some impact.

My sisters unfortunately live in Australia - but Mum and Dad are close and I've talked to them about it. ... We were away and Mum and Dad were staying in the house and they got up (Sacha, my oldest daughter was living at home at the time) - there was a big kerfuffle in the middle of the night. They got up to see what was going on and Carla was standing there with a knife in her hand. I think that Mum and Dad probably felt quite threatened, but I don't think she actually threatened them with it. It was just the whole situation and I said to them They should have just called the police, because that's what I would have done, but I suppose they didn't like to. (Pauline)

Cathy also sought support from her mother, which was helpful initially, but became less so.

My family have tried to support me, and, you know, giving them their dues, they have, but now they've gone the other way. They don't want me to have anything more to do with Trixie, they don't want me to have her visit me, ... (Cathy)

Other parents would call on extended family and friends for specific situations, as when Marnie<sup>12</sup> had her brother-in-law accompany her at the police station when her son was arrested, or sought their help and advice intermittently, as did Tania.

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Carla's drug taking continued and she was frequently violent. She seemed to be aware that her age prevented her from being held accountable in law. Pauline's sisters live in Australia and are therefore not available to help. Her parents live nearby, but are elderly. When Pauline and her husband were away one night, Pauline's parents were confronted by an angry, knife-wielding Carla arguing with her elder sister in the middle of the night. Pauline has found her greatest source of support to be Toughlove and a school counsellor who is a friend. Pauline was frustrated by an incident that occurred shortly after the police refused to assist in bringing Carla home. A second girl, the same age as Carla and indulging in the same behaviour, was removed, kicking and screaming, by police from the same house that Carla had been in.

Carla undertook a course run by a local training trust, then enrolled in further training in Hamilton. Her attendance at this did not proceed past the first day. Pauline continues to search for alternative courses and encourages Carla to do the same. Now fifteen, Carla continues to live at home. Pauline and her husband are considering their options when she turns sixteen. Among the options is an ultimatum: engage in study or work, or move out. On hearing of changes in eligibility for the training benefit, Pauline thought it might affect Carla's attitude to some extent. The previous age of eligibility (16) had served as an inducement to leave school. The prospect of a student loan and allowance if she attended polytechnic had provided a similar incentive. Pauline was hopeful that the changes would encourage Carla to reconsider her attitude to school.

<sup>12</sup> Marnie is a widow with three children and a low income. She has two sons, Chris and Tony, and her youngest child is a daughter, Louise. Both boys have come to the attention of the police. Marnie had not noticed any problems and was surprised to find the police at the door as a result of Chris's involvement in about six burglaries at the age of sixteen. Following a meeting with the police, Chris had to undertake community service, write letters of apology and make restitution. He completed the first two components of his punishment and Marnie provided the financial compensation. The experience had the desired effect and there has been no further trouble. His younger brother, however, was involved in the beating of a local teenager. He denied involvement, but Marnie discovered otherwise and gave the information to the police. The warning he received had little effect and Tony was later arrested for his part in the burglary of a shop. This time he received community service and was banned from the retail centre. Again, that signalled the end of involvement with the police.



I couldn't handle it by myself so I rang Sid (brother-in-law) up and he came down and sat with me. (Marnie)

Depends, sometimes I talk through with my sister-in-law some of the problems that I have and we seem to work it out between ourselves on what is our next step. And because I work for Salvation Army, I know a few of them in there and I only go to the ones I feel give me more inspiration. (Tania and Paul)<sup>13</sup>

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At home, however, Marnie was subjected to verbal abuse from the children and would have things thrown at her and holes punched in the wall by Chris. She rang CYF for assistance, but to no avail. The other children were also difficult and Louise was refusing to attend school. Marnie contacted the Open Home Foundation and a meeting was arranged at school. The children were unco-operative and the meeting ended with no solution. Truancy officers attempted several times to get Louise to attend school, but were defeated by her constant crying. As a result, Louise missed her entire Third Form year and would come and go from home as she pleased, often staying out all night. Marnie sent her to stay with her late father's family, who were very supportive. They too, could not control her behaviour and Louise returned home. Louise's cousin enrolled at the local high school and that assisted in getting Louise back to school. She has never been in trouble with the police, but Marnie was still unable to curtail her coming and going at all hours. She did not know where else to turn for help and was unsure of her rights.

<sup>13</sup> This couple, on an average income, have a long history of involvement with child welfare agencies. They have three children of their own – Hannah, Maurice and Carl - and Paul has three children from a previous marriage. When Paul left his first wife he took his two older children, Joe, aged one, and Lizzie, aged three, but was unable to take the baby, Trudy. Contact with child welfare agencies was brought about by the need to formalise access arrangements for his ex-wife, who, in all, has had nine of her ten children removed from her care. She had had little contact with them for several years, but sought to renew it. By the time the children were nine and eleven things had become chaotic. Problems with access and Paul's children's behaviour following visits to their mother have resulted in many confrontations with CYF staff. The impact on his new family has been severe and, after many years of struggle, Tania and Paul came to a point at which they could no longer act as primary caregivers for Paul's two older children. Although they maintain contact with all three of Paul's children, they are dismayed at the decisions that have been made for them, making them reluctant to seek help from CYF when facing problems with their new family.

Their story is long, complicated and distressing. There is open acknowledgment of Paul's first wife abusing alcohol and drugs and indulging in theft and shoplifting, which the children not only witnessed, but were encouraged to participate in. There are also references to sexual impropriety regarding the children. When Paul relinquished custody, the children went to live with their mother, but were removed from her within weeks. Paul has never been able to ascertain the cause, other than the fact that there was a party. Trudy has been in constant trouble - absconding, drug and alcohol abuse, promiscuity - and eventually, at age fifteen, moved in with her boyfriend. Lizzie and Joe went to their aunt in a rural town and also courted trouble. Lizzie became involved with drugs and sex, while Joe resorted to alcohol. Both truanted. Lizzie, at sixteen, moved in with her boyfriend and his parents. She has had a baby and appears more settled. Joe asked to return to Tania and Paul, to which they agreed, though he could not accept their boundaries and returned to his mother. CYF appears no longer to be involved, but the experiences continue to affect the family.

When Tania caught Lizzie shoplifting she insisted on returning to the shop for Lizzie to apologise and it was agreed that she would work for the retailer in compensation. When Tania discovered Hannah was truanting, she immediately contacted the truancy service and followed it up. She found them co-operative, but limited in possible courses of action. Her encounters at the school were less satisfactory, though this has now improved. When Hannah and her brother were fighting, Tania took them to the police station for clarification on corporal punishment. The children were told that their parents had no right to hit them and the children had no right to hit each other. Consequently, Carl rang the police one day when Paul hit him for misbehaving. Two police cars responded and Paul was admonished - despite there being no evidence of unreasonable punishment. This sort of misinformation, coupled with impressions gained from experiences with the children from Paul's first marriage, has resulted in the family having a strong awareness of their children's rights, but little knowledge of their own rights.

Mona and Dave used family to maximum effect when Anna was placed in the care of CYF and they were anxious for her return. Sue had contacted a community organisation whose representative emphasised the importance of family support in order to influence the professionals.

Anyway, I spoke to the lady there and she was really good and she said, "Well, the first thing you need to do is get family involved, as much family and as many as you can. You need support." At that stage I did. So I did. That was my next step. I got in touch with family. And I brought Emma home from Tauranga, I brought her brother over from Gisborne (and) my sister-in-law from Auckland. (Mona and Dave)

Assistance from families, then, was a more viable option for some than it was for others, and was usually enlisted prior to official intervention. For Mona and Dave, the approach to family followed intervention and was intended as a support in challenging the decisions of the professionals, rather than as support in parenting Anna. As noted, family support was not an option for some families. For those whose families were available, the support that was possible was limited in its ability to affect the behaviour of the child or young person, though it variously provided moral support, reassurance, temporary practical assistance and advice. At times, as Cathy noted, the extended family can become so exasperated that their involvement is no longer experienced as supportive. Despite the willing involvement of the extended family in some cases, resolution of the problems remained improbable without further assistance. The parents sought assistance from a variety of private sources, demonstrating a range of possible options - if parents are aware of them and have the necessary material resources.

We went to counselling. I also took him to herbalists to try and work out if he was allergic to something or ... because something seemed to be triggering it off. He'd just snap, and he'd just lose control. (Zoe)

... not from agencies, from health professionals. We got him psychiatric help to get him assessed. The conclusion from that was that there were no psychotic tendencies in him. He was just a big aggressive teenager having a very difficult adolescence. We also took him to the GP first, who put him on Prozac and then referred him to the psychiatrist. (Tom and Frances)

Neither the counsellor nor the herbalist was successful in averting an escalation in Stephen's behaviour. Zoe saw no further alternatives at the time and again resorted to her own devices to try to control Stephen's behaviour. It is worth noting here that the point at which to seek outside assistance is itself in the realms of unknown territory. With each crisis, it is the parents' hope that things will not deteriorate further, that the

family will manage and survive the turmoil without the added complication of outside intervention. In the event that matters do deteriorate however, there is always the possibility that previous attempts to keep the matter private will be construed as evidence of the parents' apathy towards, or denial of, the problem. Thus, even with knowledge of the assistance available, the point at which to make contact is also problematic for the parents.

One further aspect of the family dimension that is worthy of mention is the alienating, isolating effect the situation can have on other members of the family, particularly siblings. Zoe provides stark testimony of her daughter's quiet (and initially unnoticed) decline.

Well, I sort of feel a bit sorry for Tess - that's our daughter. I suppose in the 6 months preceding the blow-up, explosion, I never noticed, but she was getting quite quiet, withdrawn, sort of keeping out of her brother's way, which was - we all did that. We all tiptoed round. It got to the stage where if you came out of the bedroom, you stopped, you looked left, you looked right, you listened and if you couldn't hear him it was safe to go out. And I knew it affected her a little bit. I didn't realise how much. The first week that he was gone (into foster care) she was just devastated - it broke the family apart. We'd taken away her brother and she was just devastated. Then I noticed over the next couple of weeks she was starting to use the phone and ring friends, and she was starting to invite friends around again. She was starting to laugh a little bit more and she wasn't sort of ... they still argue and they still fight and Stephen is not very tolerant of her at all, but there was just so much fear before, and there never seemed to be any concern for Tess. I don't know whether everybody just took it for granted that we were looking after her and we were keeping an eye out for her. Nobody ever really asked after her. I suppose in a lot of ways we were struggling to cope on our own so I never really sat down - I was trying to protect her and I was trying to look after her, but I never realised what an effect it was having on her. It wasn't till after he left that I realised what she was going through.

Thus Tess is alienated both by her brother and from her brother - and from her parents in the process. She also becomes isolated from her friends and is essentially ignored for an extended period as a result of the focus on her brother and his problems. The effect on siblings serves to add yet a further problem to be addressed by the parents, a problem intimately entwined with the primary problem and, therefore, unlikely to be resolved in isolation from the primary problem. Not all siblings slip quietly into the background, and Andrew enlisted the help of a counsellor when his children voiced dissatisfaction.

... my boys have told me that I need to clean up my act in one or two areas, so I've been addressing some of those with the counsellor. Well, Daphne and I went along with my sons - and Joanne wouldn't come - to a session with a counsellor and they told me all the things they didn't like about me which was

really brave. ... It was a very supportive group and they told me in no uncertain terms what I needed to do. So I explored some of those things with a counsellor in a session on my own. (Andrew)<sup>14</sup>

Despite their unfamiliarity with the territory, the parents have taken a variety of steps to address the problems with which they were faced – and were prepared to consider the effects of their own deficiencies and limitations on their children's behaviour. For some families, their efforts with unofficial or private sources of assistance proved insufficient and the search extended further, while for others, the search for assistance did not begin until contacted by official agencies such as the school or police.

### *Official avenues of assistance*

For these parents, assistance from extended family or other private arrangements, where available, was appreciated, but ultimately inadequate in achieving resolution of the problems. Assistance from official agencies was therefore indicated, though which agency was approached tended to be dependent on the behaviours exhibited by their children. Schools were frequently the first official avenue from which the parents sought help, or, for some, were the agency which initiated assistance. Cathy did not seek the help herself - it was the result of the intermediate school's concern regarding Trixie's

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<sup>14</sup> Joanne is the youngest of Andrew's three children and his only daughter. She lives with her mother but has frequent contact with Andrew and his partner, who have a high income. Joanne's mother was concerned at a relationship that developed between Joanne and a young man four years her senior when Joanne was thirteen. Andrew was called in on several occasions late at night to retrieve his daughter from the young man's home. In retaliation for these intrusions, Joanne and her boyfriend burgled Andrew's home, stealing a \$3000 computer. Andrew found the police officers involved to be very responsive, though he found the Youth Aid process to be slow, ringing them to try to expedite matters. The police informed them that they would have to deal with it themselves, and CYF were not interested as they did not consider it sufficiently serious. The school was more helpful. Joanne had been truanting and was put on daily report. The relationship eventually ended, but Joanne's problems continued.

Her visits to Andrew's home became less frequent, in part due to the previous tensions and in part due to her new relationship. At some point, Joanne stole a collection of Andrew's partner's jewelry on one of her visits. When confronted with it, Joanne barricaded herself in her bedroom (as was her habit whenever her mother attempted to hold her accountable in any way) - though she did return the jewelry. As the year progressed, Joanne seemed to be in a downward spiral. Her school work deteriorated, her self-esteem dipped, she gained weight and appeared depressed. When Andrew went overseas for a month, Joanne's mother became so concerned she took Joanne to the doctor, who prescribed Prozac. This seemed to help for a time, but the pills were part of a cocktail of anti-depressants Joanne took before school one morning. Andrew was out of town and found her in the High Dependency Unit that evening.

Joanne was adamant that it was an accident, not a suicide attempt. The hospital psychiatrist interviewed her and referred her for further counselling. His communication with Andrew and Joanne's mother was rushed and uncomfortable. Joanne was to continue taking Prozac, though Andrew had no opportunity to discuss this with the doctor. He subsequently tried to contact the psychiatrist by phone, with no success. He was largely excluded from the process and found the environment unsatisfactory. Apart from a letter giving an appointment for Joanne's first counselling session, there has been a distinct lack of information.

promiscuity, truancy and general behaviour. Ignorance is a particular problem for Cathy since, as outlined in chapter two, Cathy is incapacitated by a problem akin to an inability to speak or comprehend English. The school's intervention therefore offered an opportunity for accessing desperately needed information and assistance. For other parents, the school was an obvious first point of contact, by virtue of the types of behaviours causing concern.

... we were dealing with the public health nurse from the intermediate school, because she was in trouble at school. (Cathy)

I asked them for assistance because her behaviour was quite bad sometimes ... and they said she really needed a psychologist, and they said that they would do it... they would sort it out. (Michelle)

Just basic behavioural problems. Bucking the system really, I suppose. This was when she was at intermediate, her last year at intermediate. And I talked with the teachers several times. (Pauline)

... he went into another teacher's class and I got on very well with her and we talked about things and she actually said to me "I think there's something wrong." (Janet)<sup>15</sup>

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<sup>15</sup> Janet has been single for the last ten years, raising her three sons on a low income. The relationship with her ex-husband is frequently antagonistic, though it does provide an option for alternative care for the children and they visit their father every second weekend. Janet noticed problems when her eldest son was at primary school, though the teacher never communicated any problems to Janet. The matter did not surface publicly until year's end in Standard Two, when unfortunate remarks were made by the teacher in front of the class. The following year Justin's new teacher referred him to the Child Development Centre at the hospital, who diagnosed an anxiety disorder. No further action was taken, though problems continued.

When Justin was fourteen Janet took him to the Child and Family Team, who diagnosed ADHD. His two younger brothers were similarly diagnosed and all three were prescribed Ritalin. For the next nine months Janet experienced a marked improvement, though the counselling assigned to the family in conjunction with the medication was minimal. It ended despite Janet's requests for more, and no alternatives were offered to her. Hayden came home one day with a swollen face, the result of an assault. He had visited the school nurse and counsellor and named the boy responsible. By next morning Janet had still heard nothing from the school and visited the Principal. The meeting was difficult and unsupportive. Janet was critical of their inaction and the Principal took exception to the criticism. Janet was contacted by the Deputy Principal the next morning and accused of harassment. With no assistance forthcoming from the school, Janet took Hayden to the police and they filed a complaint. Youth Aid followed up, though Janet is unaware of the outcome. Hayden's own behaviour, however, was far from exemplary both at school and at home.

He had admitted to some drug use and she suspected he may have been selling his medication. She placed him in a different school in the hope of forestalling further deterioration in his behaviour. This has not been successful and he has been suspended indefinitely. When Hayden hit her she called the police, but was disappointed in their response. They were unwilling to take a hard line with Hayden on the grounds that they preferred to maintain an amicable relationship with teens. They suggested Janet contact CYF, but she is unwilling to do this. She cannot explain her fear, but believes CYF have the power to destroy families, will take over her life and allow the boys to run riot. She is considering sending Hayden to live with his father, though would prefer to send him to some sort of foster care if it was available.

I'd caught her out (truanting) a few times, yes. I'd spoken to the school first and we were supposed to meet at a certain time and for some reason I just asked her (school secretary) to find out if Deana was in class, and she rang me back and said "No" so I automatically asked for the truancy number and just went from there. (Tania and Paul)

I still maintained my relationship with her and was asked to go to school on several occasions because she was difficult at school. She's a very bright girl and tended to manipulate teachers - who didn't find it easy to control her - and played truant. (Brenda)<sup>16</sup>

She (Louise) got caught, taken back to school, and then they came down and saw me about it. Took her to school and then they came and saw me and that's when it all started. I told them what had been going on and everything like that and they said they'd just keep an eye on her. (Marnie)

The school, therefore, provided a useful and readily accessible starting point for seeking assistance. In some instances there was immediate referral to other services, such as truancy officers, or recognition of problems which required referral. There is also evidence of a willingness to communicate with parents. The relative efficacy of approaches to, or initiatives by, the school is not a forgone conclusion, however, and

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<sup>16</sup> Brenda is a British citizen, permanently resident in New Zealand. She is a health professional with three daughters and a same sex partner. Her eldest daughter, Georgie, brought herself to official attention at the age of 15. She was unhappy with the boundaries her mother was setting at home and made an appointment with a social worker. She was granted an Independent Youth Allowance and moved in with her boyfriend's family. The social worker made no attempt to contact Brenda. Based on Georgie's interview and a conversation with Brenda's ex-husband, the social worker concluded that Brenda was an unfit mother, an assessment that Brenda regards as premised on her lesbianism.

The period was a difficult time for the entire family. Brenda acknowledges that her recent identification as a lesbian was difficult for her daughters to accept. She encouraged Georgie to seek counselling at school, but Georgie did not see this as a useful option. Brenda then visited the psychologist to whom the social worker had referred Georgie. Although finding personal solace in the psychologist's assessment that Georgie was at fault (Brenda was by then desperate for some acknowledgment that she was not a wicked mother), Brenda was unable to influence the decision to grant Georgie the benefit, which allowed her to move in with her boyfriend. In the absence of any continuing or follow-up support for Georgie - other than financial - Brenda considered the psychologist's assessment unhelpful.

Although no longer living with Georgie, Brenda maintained contact and was called to the school several times regarding Georgie's truanting and difficult behaviour in the classroom. The family Georgie was living with was not contacted by the school, the school was reluctant to discipline Georgie and there was little Brenda could do to influence her daughter. Georgie moved into a flat six months later, the beginning of a succession of jobs and relationships. She was soon too old for intervention by CYF and, once sixteen, Brenda had no legal grounds for insisting she return home. Her two other daughters were also struggling to come to terms with their mother's lesbianism and the breakdown of their parents' marriage. The elder of the two eventually followed Brenda's suggestion that she seek the counsel of her mother's friends and colleagues who were counsellors. The arrangement was informal, low key and successful. Brenda's youngest daughter was fourteen at the time of the interview and coping well. In light of her experiences with authorities regarding Georgie, Brenda was unsure of where she might seek help if problems developed in the future.

results were mixed. Though initially offering the possibility of access to other services, this first point of contact often proved disappointing.

It (the promised help) never happened. (Michelle)

... but they (school) didn't really have any solutions, any ways to deal with it, anything that worked anyway. (Pauline)

So then I went (via the school) to Child Development Centre at the hospital and they diagnosed an anxiety disorder. (Janet)

No, the school were concerned. They spoke to me about it, but not the people she was living with, and when she went flatting, she left (school). Truancy was never called in. (Brenda)

At the meetings with the teachers where she had been very disruptive in class - and I knew what she was capable of doing - and I think she was severely distressing one teacher, and truanting. They kept on wanting to make excuses for her. And I just said, "I think she needs to feel the results of her behaviour. She needs to know what she's doing." They wouldn't discipline her. They wouldn't at all. (Brenda)

I don't know what happens from the school's side of it. I just know that certain days she'd be hiding under the bed, or she was home too early. Things were a bit sketchy for a while, just to find out what was happening at school and why she wasn't attending. (Tania and Paul)

Truancy tried to help Louise, but that bombed. She just sat there and bawled and bawled and bawled and put on such a big thing that it got to the stage where they thought they better give up. They just faded. They gave up I think. And then Louise didn't go to school for a year, no matter what I tried. (Marnie)

Despite agreement that Michelle's daughter did indeed have problems, the promised help never eventuated. Michelle was at a loss as to where else to turn - her first point of contact had failed. In a similar vein, Pauline and Brenda also found the school of little help in alleviating their ignorance, isolation or impotence and Brenda was particularly frustrated by the school's unwillingness to hold Carla accountable. Conversely, Janet, - after some earlier misgivings about communication between herself and the school - eventually found the school useful in gaining referral to additional services. Marnie found the school and the truancy service to be as impotent as herself in ensuring Louise's attendance at school.

While Tania and Paul received assistance from the school in regard to their daughter's truanting, they remained unclear as to the school's policy and practice in this regard. Their experiences therefore demonstrate the ways in which ignorance and isolation are addressed in one respect, but continue in another. They reported further positive

outcomes from referrals by the school. Deana's truanting was short-lived. Her two younger brothers, Maurice and Carl, did not truant but were disruptive and difficult at school. The school acknowledged Carl's problems and referred him to Special Education Services, who provided counselling and remedial work. Problems persisted however, and eventually Carl was suspended for assaulting another pupil. Both parents felt this was no reflection on the school.

They were very supportive, but they had their hands tied really and they just had no choice but to suspend him. (Tania and Paul)

The school also referred Maurice to Special Education Services and he received similar assistance to that given Carl. While Carl has improved with the move to intermediate school, Maurice's problems with controlling his anger continued to cause concern. He too was suspended (just prior to the interview for this research) from primary school - for hitting five children in one day. Though appreciative of the assistance provided, Tania felt the counselling provided was too short and infrequent.

They (Special Ed) are going to set up meetings with us and she wants to do some work with Maurice and just see. I would like counselling for him every single day if I could get it. But I don't know who to go to. Parentline only take really urgent cases at the moment, because we had Maurice in there for an anger course and I think he needed more than that. I don't like him going just once a week, cause it goes in one ear and out the other and he needs more one on one sort of stuff. The Principal is actually going to be coming round Monday, Tuesday and Wednesday to run through things with Maurice just to make sure he's got it clear on why he's away and what sort of routine he'll be into when he comes back. I do feel that is supportive, but I wish there was some (further) sort of counselling for him. Something within what I can afford to pay for him as well, cause I can't afford to pay twenty to forty dollars a day. But I still think he really needs it. (Tania and Paul)

The school's actions demonstrated a recognition of the severity of Maurice's problems. The family clearly received solid support from the school, but were frustrated by the limits to the assistance available from other organisations. This is not to say that Tania and Paul expected the school to resolve matters for them. They were not averse to seeking the help of other professionals in attempts to modify or prevent *at risk* behaviours. In addition to the school, they had also approached the police, attended parenting courses and counselling, and even approached a retailer from whom their daughter shoplifted. Their continuing problems are reflective of the paucity of affordable, effective programmes for addressing the behaviours Maurice exhibited.



Although the parents were clearly guided in their decisions regarding where to seek assistance by the type of behaviour their offspring were exhibiting, this is not to say there is uniformity in this regard. Drug problems, for instance, have prompted some parents to contact the school, rather than the police. Absconding, on the other hand, instigated a significantly more uniform response from the parents. Michelle's initial quandary regarding where to seek help with Nita's disturbing, but difficult to define, behaviour at primary school was alleviated to some extent by the escalation in Nita's *at risk* behaviour. For Michelle, the police were the obvious agents for assistance when Nita absconded. Like Nita, Hamish's first encounter with the police was a result of running away from home. A similar pattern is reflected in other parents' stories.

And he came to their (police) attention firstly from us, when he wasn't coming home. He was sleeping out and ... in fact I became really concerned about him. He had just turned 14. ... We were looking for him and they (police) assisted in the search. (Tom and Frances)

They (police) were going to watch out for him ... they were going to look out for him and we were just to keep in touch. (Zoe)

We'd rung all around her friends for a start and couldn't find her so we went to the police. (Pauline)

Contact with the police afforded a means of easing the isolation of the parents and gaining some assistance in their parenting efforts. As with the schools, contact with the police did not guarantee resolution of the problem, though the police were always receptive to reports of missing children and young persons in the first instance. While this did not translate into full-scale searches, police frequently found absconders in the course of their normal duties. Absconding and the police response to it, however, exposed further problems, most notably an impotence in effecting the return of the young person in cases where the young person refused to co-operate. Though generally obliging and concerned, the goodwill apparent in the police's response did not always translate into practical assistance.

Actually an off-duty policeman found him the first time, going for a run. So he just ran back home and phoned it in, and they phoned us up and we went down and picked him up. (Tom and Frances)

Yes, they've been very good in the night if you can't find them and you can't call them a missing person for twenty-four hours, but they do put a message out to the cars, and that's how that off-duty cop happened to find him that time. (Tom and Frances)

They didn't know what to do with kids like Nita, basically. (Michelle)

I think the first time they just said it was really up to us to get her home. We reported her as missing and then went back and said 'Look, we've found her. We want her home, but she's refusing to come.' And they just said, 'Well, there's nothing we can do about it.' And we said 'Well, (she was only 14 at that stage) surely she has to be at home, she's a minor.' But their attitude was that it was up to us to do something about it. (Pauline)

He runs away and they sort of said, "Yes". ... They write it down. They don't have the time, the resources to go looking for a kid. (Zoe)

The police responses are clearly variable, and no doubt influenced by the caseloads they faced at the time. Other factors, discussed in the following chapters, are also involved. At this point, however, it is important to note that, while isolation is initially relieved to some extent by involving the police, the police's impotence when challenged by the young persons' refusals to co-operate once again leaves the parents isolated from positive assistance. Absconding is not an offence and unless the young person commits an offence the police's response is limited. Although absconding is a care and protection matter, referral to CYF was not automatic and, in the absence of a referral, further action or assistance was not forthcoming. It should also be noted that some children and young persons abscond as a result of abuse in the home. Because the police were willing to return the children home in cases where the children co-operated, and unwilling to take further action by referral to welfare agencies in cases where the young persons were unco-operative, it must be assumed that, in the cases presented here, the police did not find evidence of abuse.

Some of the parents became involved with the police through the actions of people other than themselves. Most often this was a result of their children's actions, either through offending or through self-referral to the police, sometimes alleging abuse.

Initially she was picked up at Chartwell for shoplifting, which, unbeknown to us, had been going on for 3 years. ... we just trusted her and we didn't realise what she'd been doing all those years. She actually started stealing in Form 2. (Agnes)<sup>17</sup>

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<sup>17</sup> Agnes and Theo have one son, three daughters and a good income. Their eldest daughter, Megan, first came to official notice for shoplifting when she was sixteen. Prior to this her parents had not noticed any signs of trouble and the family had enjoyed a family holiday overseas some months earlier. A meeting with Youth Aid resulted in a reprimand, a two year ban from the shop and instructions to bake morning tea for the store. She failed to do this, but the matter was not followed up. Agnes and Theo discovered that Megan had begun shoplifting at the age of twelve. For several weeks Megan's movements were restricted whilst they tried to re-establish trust. Each attempt to move towards a more normal situation eventually resulted in a further breach of trust, culminating in Megan's decision to move out of home, rather than abide by the boundaries her parents set.

Chris ... would just go round and do cars over and burglaries and he got caught. He was an accessory to the crime. So the police came to the house and ... Chris - well, we got taken away and interviewed. We went up to the police station at Chartwell. They gave us an interview, both him and I. The guy said that he'd keep it out of Court because Chris co-operated; he wasn't angry, he didn't get violent or anything when the police arrived, he just about volunteered to go all the way through. Told them the whole full story. (Marnie)

Tony! He got caught - I set him up really - him and his mates. They did a kid over with a baseball bat outside my place. He (the victim) went to the police. Next thing the police were here and they all tried to deny it to the cops and me. The cops couldn't prove anything - 3 against one. I didn't know anything about it because I didn't see it happen. ... Tony told me later that Mark, this other kid, had done it. So I set them up. I went up to the supermarket, told the police where I'd be, they stopped my car and arrested the 3 of them. And then he got in trouble again - going down the backstreet of a shop and crowbarred open a door and pinched t-shirts and shirts and all that and I was called to the police station on that one. He got caught by a security guard, running away from the scene, him and two other guys. (Marnie)

One night they biked round to our place and Joanne knew where we hid the key, and got in and the dog didn't bark and stole a \$3000 laptop computer and I had to call the police. Because I rang up and checked and she denied that she'd taken it and so I just called the police and they said "It's an inside job if the dog didn't bark and there's no forced entry," and they just went round and found it under his bed. That's how she came to the notice of the police. There was some graffiti put on our house too. (Andrew)

I'd had a very bleak, awful day really ... and went out for about 2 hours, leaving my younger daughter and my older daughter's boyfriend in the house; came home to a roaring party. I came in, was very angry and asked everybody to leave ... and people thought that I was making a ridiculous fuss. And then about one o'clock in the morning there was another knock at the door and it was the young man's brother ... I was up and telling him to leave and he was pushing on the door, and I pulled his cap down over his eyes and said, "You go

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Telling the authorities she had been evicted by her parents, Megan was granted an Independent Youth Benefit and moved into a flat. Because she was sixteen Agnes and Theo were not able to prevent her leaving home, but objected to the granting of a benefit which enabled her to do so. They were concerned for her future, particularly her schooling, and concerned about her continuing cavalier attitude to theft. When they first approached the authorities about their concerns and to clarify the circumstances under which Megan left home, they were rebuffed. Eventually CYF called a Family Group Conference, which Grant asked be scheduled a day earlier because of his work commitments. His request was refused and the conference plans abandoned.

The response from Megan's school was similarly unhelpful, with truancy going unreported and Megan's account of problems at home never being questioned. The family could see no other avenues for addressing the situation and could do nothing but wait and hope. Megan completed her Sixth Form year and found work the following March. Apart from financial assistance, the authorities offered no other support to Megan. She maintained contact with her family, which was always welcomed. Although Megan is doing well in her career, Agnes sometimes finds her to be excessively despondent, but is unable to convince her to seek the counselling that Agnes feels was needed when she first came to official notice.

now,” and tapped him on the face. His mother was standing at the gate and she took that boy to the police to lay a charge of assault on me. (Yvonne)<sup>18</sup>

He came to the notice of the police when he actually rang the police himself and said that his father had hit him, because he was outside cleaning - supposed to empty out a scrap bowl and he chucked it on the back lawn, and Paul saw a piece of bamboo and sort of smacked him round the bum with it and he came inside and rang the police. (Tania and Paul)

We discovered that she had spent the afternoon at the police station. She had gone there voluntarily to complain that she was being abused, beaten up. (Mona and Dave)

The actions of the police in each of these instances is considerably more positive, since they are responding to offences and complaints. The first three cases indicate that the parents are initially ignorant of the behaviours involved. It is not uncommon for the extent of a child's misbehaviour or further underlying problems to be unknown to the parents. This is not to suggest that the parents have been indifferent or uncaring. More plausibly, the child has been at pains to conceal his/her behaviour (there is little point in announcing an intention to truant or steal, or indeed to reveal a previous episode if it is the child's intention to persist with the behaviour), or has been unable, for reasons which

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<sup>18</sup> Yvonne is a well-paid health professional who is married (though her marriage was unstable at the time), with two daughters. Yvonne came home one evening to a party organised by her daughter's boyfriend and as a result of her subsequent actions found herself the subject of an assault complaint. Hope and her boyfriend resented Yvonne's actions in ending the party and moved out, taking Grace, her younger daughter with them. Grace was fifteen and CYF became involved.

Yvonne had considerable trouble accessing information about Grace from CYF, but eventually was told that she had been placed with Corey's mother. Yvonne agreed that some time apart would probably be useful, but strongly objected to her current placement. A compromise was reached and Yvonne arranged a meeting with the social worker the next day. She then mobilised her support network to discover as much as she could about the social worker involved, afraid that she would meet a similar attitude to that which had imbued her earlier experience with the police. Despite her background, her standing in the community, her considerable resources and her impressive personal presence, Yvonne still felt at a disadvantage. She considered herself extremely fortunate in regard to the social worker assigned to the case, but was disturbed to learn that she had interviewed Grace at school and had referred her to a clinical psychologist without her knowledge or consent.

Yvonne set aside her concerns in this regard in order to focus on achieving her daughter's return home. It was agreed that Grace would stay with a friend in the meantime. The school counsellor proved particularly troublesome for Yvonne, due to her repeated references to Grace of the availability of the Independent Youth benefit. This had come about as a result of Grace's association with a group of boys who were living in cars and eating at Yvonne's home in her absence. She then discovered they were sleeping in her driveway and called CYF. The matter was dealt with quickly, but the counsellor remained a problem. When Yvonne visited her she found her attitude patronising and unhelpful. In the end, at Yvonne's request, CYF instructed the counsellor to refrain from discussing the youth benefit.

Paradoxically, Grace quickly became anxious to return home and Yvonne spent several hours gaining permission. She felt that she was treated differently because she was herself in counselling, and that seemed to reassure the social worker. Grace and Yvonne negotiated new boundaries. Hope has returned home, but is still involved with Corey, who lives elsewhere. Yvonne's marriage survived.

do not necessarily reflect poorly on the parents, to confide underlying problems which may be a factor in the misbehaviour (recounting problems with peer pressure may be forestalled by a fear that the outcome might involve loss of the peer group, for example). It is therefore not surprising that parents are frequently among the last to know of a given problem. As Marnie's second experience demonstrates, the parents were not averse to ensuring their children were held accountable. The parents generally had no objection to intervention by the police and in Andrew's case, he initiated it. The latter three cases involve complaints against the parents, all instigated immediately following particular incidents. In all cases, the police response was significantly more extensive than for those parents who had sought police assistance for absconding offspring.

Chris had to write letters to the people that he did the cars over. There were about six of them - cars and houses. And he wrote all those ... And he had to pay some money back too. He was banned from Chartwell for two years too. (Marnie)

I think he (Tony) just got a warning not to do it again, and he had to apologise (for the assault). ... Tony was put on community service (for the theft). He had to mow lawns, do gardens, stuff like that. He had three weeks of that and then I had a registered letter sent to me saying that he had to stay away from Centreplace for a year. (Marnie)

She had to go to Youth Aid to an interview and she was told off and told to make some morning tea for a shop at Chartwell where she was caught and she was banned from that shop for 2 years. (Agnes)

It was processed through the Youth Aid. The agreement was, the police got her to write to me, apologising, which she did and explained why she did it. And one of the things was that they had to remove the graffiti from the wall and they did that. (Andrew)

A Youth Aid officer eventually got back in touch with us and told us that she had spent the afternoon with Anna and that she had shipped her to Hamilton - or sent her to Hamilton in her words. It was in the hands of CYPS - it had gone out of police hands and was in the hands of CYPS. (Mona and Dave)

A couple of police cars turned up here and they said to Paul, "This was not allowed. You're not allowed to hit your children with any form of object." (They) said that he has to control his anger and stuff, and they've had a talk to Carl as well, and he isn't marked or anything like that. I just thought this is really strange and I thought, "Well, so what's going to happen?" He says "Oh no, nothing - we've just talked to him. But if it happens again we'll have to take Paul away for questioning." (Tania and Paul)

They came to my house the next day. They then went back and talked - they had several visits and they came back a few times. No charges were laid in the end. (Yvonne)

After much hassle and cajoling and yelling and screaming and whatnot, we eventually got Anna out of this (CYPS) place. And since then I think I've had two calls from CYPS just to see how things are going. I've said "They're fine, everything's wonderful, Bye" because I really don't want to have anything to do with them. (Mona and Dave)

While no legal proceedings were instituted against the parents in the latter three cases - and Anna was returned to her parents, the complaints were investigated and the decision not to proceed with charges must be deemed to have been made on valid legal grounds. It is important to note that the complaints were treated seriously - a process not applied when parents complained of physical abuse of themselves by their offspring, as will be discussed later. The police response in the cases involving offences by young persons was largely uniform. Each was held to account at an informal meeting that included the parents. The punishments decided at the family meetings produced mixed results.

Chris didn't get into any other trouble after that. It really knocked him back. He admitted to the police that he made a mistake and he learnt by the mistake and I think it did rock him. It was a first offence, only thing he's ever done. That was it, nothing else since. (Marnie)

After that (the second incident) Tony went straight. Nothing else after that at all. (Marnie)

Well, that wasn't punishment. She (Megan) never did the baking. It was never followed through. (Agnes)

A family meeting was held and it was totally unsatisfactory, but that has got more to do with my inadequacies and possibly her mother's, than the agencies concerned. We didn't deal with it adequately, that's for sure. Her responsibilities were never really addressed within the family. (Andrew)

Despite the active responses of the police in these cases, interaction with the police as a result of offending by the teens brought mixed results for the families. For Chris the effect was immediate cessation from illicit activities, while for Tony a second involvement with the police was necessary. Although there was no further police involvement with the family, Marnie continued to struggle with her children's behaviour and sought other means of addressing it. Megan ignored her punishment and continued to shoplift. Joanne's behaviour continued to cause her father concern and he openly acknowledges the failure of his attempt to address the problem, assessing it as his failure rather than that of the professionals. All three families became involved with other child welfare professionals to varying degrees. These more intensive experiences are examined in the following chapters.

## *Conclusion*

The private faces of the parents contrast significantly with the impressions imparted by their public faces. Their personal stories suggest that the indifference and incompetence conveyed by the public accounts of their stories are not accurate depictions of their parenting. An overwhelming frustration permeates their private accounts and this is related to their attempts to address the *at risk* behaviour of their offspring. While there is variation in the circumstances and particularities of the cases, the frustration that characterises the parents' attempts to address the problems derives from the general conditions of ignorance, isolation and impotence. These three themes are not descriptions of the parents *per se*, but of their position and the conditions of parenting which they experienced. While the themes overlap and interact, they also contribute to and reflect the frustration evident in the parents' stories.

Among the experiences related thus far, it is clear that there are many areas in which, with the onset of a crisis, parents find their knowledge and experience to be inadequate. Indeed, continuing ignorance might be regarded as an indicator of crisis-free (or at least relatively so) child rearing. Until faced with a crisis most parents will have little idea of their rights (though they may have a better understanding of their children's rights), of the range and accessibility of avenues for assistance, of legal obligations pertaining to themselves and others and of the extent of their child's problems. In the first instance they may be ignorant of their offspring's misbehaviour or problems and initial revelations occur via the police (as with Agnes) or the school (as with Cathy or Janet). Other parents keep matters in-house until the behaviour becomes of a type or magnitude that underscores the type of first contact that should be made. If this course of action is unsuccessful, the parents are often bereft of ideas about what to do next.

These first points of contact are therefore crucial to the parents' ongoing searches for assistance. In many instances, the parents felt that the contact had been unproductive in that it failed to provide access to further services or failed to curtail the troubling behaviour of their offspring. There were some successes - Janet was referred to further assistance by the school, as was Tania's and Paul's family. Chris and Tony ceased offending following their contact with the police. For all the parents, however, problems persisted beyond initial contacts and their ongoing interactions with the professionals require examination in greater detail. New Zealand's primary child welfare agency - the Department of Child, Youth and Family Services - was not regarded by the parents as an appropriate first point of contact and has therefore not featured prominently in the

analysis thus far. Interactions with CYF and other professionals are presented in the following chapters.



## CHAPTER SEVEN

### **Interacting with Child Welfare Professionals**

It is clear that the parents' early problems vary greatly. There is, however, evidence of a source of frustration common to all the parents - a substantial degree of isolation and impotence, which stems from their unfamiliarity with the territory. Although the previous chapter outlined the parents' experiences with some of the professionals, it is necessary to present their continuing experiences in greater detail in order to isolate further sources of frustration as they negotiate possible avenues of assistance. Their experiences with New Zealand's official child welfare agency - CYF - also need to be examined. This chapter addresses both these requirements. The manner in which this is undertaken is driven by the parents' stories and therefore mixes accounts of their interactions with the various professionals. Their continuing efforts in regard to their children are the base from which the analysis is undertaken. Most of this is related to interaction with CYF, though the police and other professionals are also involved.

This chapter begins with the parents' initial contacts with CYF, an experience that all but one of the families encountered. The exception, and the reasons for the lack of contact, are also informative. Problems emanating from the requirements of meeting access criteria for various avenues of assistance are investigated and discussed in relation to the rationing of services. The analysis also notes the differential treatment accorded families who approached CYF of their own volition as opposed to those whose contact was initiated by other professionals or the children themselves. Most significant is the parents' consistent inability to access assistance, while for their offspring the reverse was the case. In these latter cases, parents found themselves isolated, excluded and often unheard by the professionals, with actions sometimes taken by the professionals in the absence of the parents' knowledge or consent. For parents whose offspring initiated contact, allegations of abuse were implicit in the contact, becoming explicit as contact with the professionals proceeded, though the nature of the allegations was often difficult for the parents to ascertain. The particular difficulties inherent in these cases are useful for demonstrating the relative power of the parties and the relative weight attached to the voices of the parents and their offspring. One of these cases, Yvonne's, is significant for its relatively smooth resolution. Yvonne's success in interacting with and influencing the professionals provides useful evidence of the ways in which ignorance (and resolving ignorance) influences outcomes.

### *Accessing CYF assistance*

As noted, problems persist beyond the initial point of contact. Levels of awareness among people as to the type and availability of extended services are much lower than those pertaining to health or education services. Furthermore, much of the knowledge of such services that does exist is likely to have been obtained through the various news media which usually focus on either extreme cases or failures in the system. Parents may therefore have some vague knowledge of the existence of CYF, but little faith in its competency, a poor understanding of how it operates, or little knowledge of how to access its services. Similarly, parents may have heard of adolescent drug rehabilitation centres, but have no knowledge of where they are, what the eligibility criteria are, or how to access them.

Initial awareness of the systems and processes of CYF was generally low amongst the parents, though knowledge of its existence was uniform. All but one of the families (Janet) had some contact with the agency at some point. Janet's aversion to any contact with CYF reflects a perception of the agency that mixes media images, personal communications and a lack of substantive information into an unflattering, unhelpful composite, which effectively served to isolate the family from potential help.

Just from what I've read in the newspapers and ... it's probably the fact that it's a Government agency and I had heard that it's geared for - like children can just decide "Well, hey I'm leaving home" and from what I've heard of it, it's all about the kids ... and they can be stropky, doing the wrong things but it's my impression that the kids can go along there and say a whole lot of stories about their parents and it's kind of like "Well, yeah, okay. Now we'll help you to do this." Because from what I know of CYPS ... they can take kids away or they can - well in the words of someone I know that works there said, "We can destroy families."  
(Janet)

Of particular note is Janet's reluctance to access one of the few avenues of assistance whose existence is commonly known to the parents. With the low levels of awareness among the parents about first points of contact and the range and availability of help that exists, it is disturbing that the reputation of the primary agency in child care and protection has been so tarnished as to deter some of those needing help from approaching it.<sup>1</sup> Janet's concerns were not based on personal experience and her harsh assessment is understandable in light of the poor media profile of the agency and the reported remarks of a personal acquaintance. None the less, Janet acknowledged her

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<sup>1</sup> Although CYF was not considered by most parents to be an appropriate first contact with early problems, it became a considered option when there was an escalation in *at risk* behaviour.

unfamiliarity with the structure and operation of the Service. She had no knowledge of the existence of the family homes, for instance, which might have provided the opportunity for some respite during her most difficult times by accommodating her son for a short period.

That's what I've always wanted. What I've always looked for is a safe place where he will actually have appropriate care, to focus on himself, but there actually hasn't been any anywhere. (Janet)

Janet's negative impressions of CYF effectively excluded a possible avenue of assistance for her. While her impression is extreme, most of the factors influencing her assessment also influence other parents. CYF's poor public image, irrespective of whether it is justified or not, will affect parents' interactions with the service and foster a more cautious or critical reaction to the professionals. Janet's impression also suggests the presence of a perceived conflict of interests between herself and her offspring on the part of the professionals - the expectation of a polarisation which aligns the professionals with her offspring while she herself is marginalised and unsupported. This polarisation is reflected in the experiences of the parents who were involved with CYF.

### ***Initial contact with CYF***

Had Janet's impressions been more positive, accessing the desired assistance is still likely to have been problematic, as the experiences of other families demonstrate. Contact with the official child welfare agency came about through a number of means. Some of the parents contacted CYF directly to seek assistance when involvement with other professionals had not resolved their problems. Again, they were ignorant of the rights and duties of the respective parties and the likely processes and structures they would encounter, and again, contact did not always alleviate this. Tom and Frances approached CYF on two occasions. Initially they had made contact in order to gain access to any services that might be helpful in addressing Hamish's absconding and alcohol abuse.

Just a phone call, basically to say "What can we do?" and basically it was a young social worker, I think, saying there was nothing they could do. They didn't want to know us. (Tom and Frances)

Hamish's misbehaviour was insufficient grounds on which to access assistance, and despite contact with the school, Youth Aid and CYF, Tom and Frances essentially remained isolated in their efforts to manage their son's behaviour until they made contact with NSAD. For Tom and Frances the presence of alcohol abuse in their son's behaviour provided access to an avenue of assistance.

I just started ringing through those help pages in the phone book and I just happened to strike NSAD and they said, "Right, come in now." And I did, otherwise I might have chickened out. To have somebody that would take you there and then and at least talk to you, when you finally ... It was like a lottery, because if we hadn't got NSAD, if I hadn't happened to strike them ... (Tom and Frances)

Though helpful in many respects, NSAD was unable to assist with residential care and Tom and Frances once again found themselves in the role of explorers in the wilderness.

What I found was in NSAD is that they were very helpful in their own right, just like Toughlove are, but they - these organisations - don't really know what boundaries the other organisations have. They didn't know where to turn and they were quite interested in having somebody who would go to the lengths that I was prepared to go that day. (Tom and Frances)

Frances' search for residential treatment for Hamish's problems resulted in their second contact with CYF, and followed Hamish's assault on a police officer at the station and threatening behaviour towards his mother. The second contact proved equally fruitless, though on slightly different grounds.

So we made this appointment. We turned up at six (o'clock). It was really interesting - it's quite a nice little waiting room. We got told, "There are no social workers available here, but there is a relief social worker but he doesn't know the area but he'll be what you get." We were really, really scared about Hamish. So we go down there. We told them the problem. He said, "Yes, yes, yes, sympathise, understand, understand. Have you got a Community Services Card? No? Sorry there's nothing we can do." We were told in no uncertain terms that unless we had a Community Services Card, it was our problem. Unless he physically assaulted Frances, in which case they would take him into some sort of protective programme. I mean it was just dollar driven drivel, and I was so pissed off that I ... I don't know, I came out of there so angry. (Tom and Frances)

The parents' frustration is both evident and understandable. Though Tom and Frances were completely unaware of it at the time, the insistence in regard to the Community Services Card<sup>2</sup> was quite erroneous, and not experienced by any of the other parents. There is nothing in the legislation which links family income to access to the services of CYF. Furthermore, Tom and Frances were quite happy to pay for any services - they simply wanted assistance in finding and accessing the services.

So they assumed we were down here looking for funding, and we couldn't get through to them we were down here looking for help, and if any funding could be

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<sup>2</sup> Introduced as a means of enabling health care charges to be adjusted according to personal income, possession of a card has come to be viewed as evidence of a low income and is used to access discounts in a number of commercial practices (cinema tickets, for example).

there it would be nice, but it actually wasn't that important. But they kept bringing everything back round to funding. (Tom and Frances)

Despite the fact that the reason given for refusing access to the services of CYF was incorrect, the situation itself highlights a further problem in relation to meeting the criteria of various helping agencies. More commonly, this is in regard to the children themselves rather than family income or other demographics. This is not to say that family demographics are necessarily insignificant in the process. There may well be a tendency to resist giving assistance to parents who present as well off, well educated and well married. Similarly, suspected child abuse, rather than overt *at risk* behaviour by the child, may be more likely to elicit a helpful response. Sensibly, parents who approach CYF seeking assistance are less likely to be abusive, since abusive parents are unlikely to encourage intervention by professionals for fear of discovery of the abuse. Furthermore, parents who contact CYF are clearly aware of problems and anxious to address them. This willingness and proactive approach is likely to be absent in abusive or negligent parents and may be used as an indicator that the family, by virtue of its attitude and cognisance of the problems, will cope without active intervention from CYF. While there are indications of some of these factors in the parents' experiences, establishing the existence or extent of these practices is beyond the scope of this research. The degree to which the practices encountered by the parents fit with the ethos of the legislation is examined here for its effect on the parents, though prevailing practices, as depicted in the parents' stories, also provide useful guides to possible explanations for the actions taken by the professionals. In this instance, the insistence on possession of a Community Services Card is worth noting, if only for its revelations in regard to the level of knowledge and competency of some staff.

### ***Access criteria***

The problem of meeting the relevant criteria in order to access assistance can apply regardless of individual family demographics or the competence of front-line staff. In the first instance the various helping agencies will draw their clients according to specific criteria. A child with alcohol-related problems therefore, will fall outside the parameters for admission to facilities or services provided for children with learning or behavioural problems. Indeed such children may be specifically excluded. There are, of course, other services catering specifically to those with alcohol-related problems. Where children present with multiple problems placement can be more difficult, and general behavioural problems are particularly problematic by virtue of their indeterminate nature

and the concomitant absence of a firm indication of the appropriate type of assistance required. Isolation for both the child and the family, then, can occur as the result of a lack of fit with the prescribed client profile, reinforcing feelings of exclusion, disconnection and insularity. Conversely, fitting an appropriate profile does not in itself guarantee an end to isolation.

The first barrier in this respect is inextricably linked to resources. A child or family seeking assistance may well match the helping agency's criteria, but be relegated to a waiting list or advised to go elsewhere because the agency is already operating at capacity. Similarly, though perhaps more agonisingly for the parents, services may be rationed according to the degree of severity of the problem. Where resources are stretched assistance is inevitably accorded to the worst cases, and parents face the prospect of their child's situation having to deteriorate significantly before they qualify for assistance.

Time and again parents expressed exasperation at their inability to access help on the grounds that their child's behaviour or situation was deemed by the professionals to be insufficiently aberrant to warrant intervention, as Tom and Frances's first experience above indicates. While they may have fitted within the descriptions and definitions presented in the Act, the final determination of what constituted *at risk* behaviour was the province of those administering the Act. Thus rectifying the parents' ignorance of the detail of the Act would not necessarily ensure help was forthcoming. Access to assistance from CYF would be premised on the professionals' assessment of the severity of the problem and this determination would encompass considerations (usually fiscal) of little relevance to the parents, except in their results. Pauline faced frustration and isolation stemming from conflicting definitions of *at risk* behaviour, when attempting to have her daughter retrieved from another residence, as noted in the previous chapter. Both the police and CYF deemed her daughter not to be sufficiently *at risk* to warrant intervention. This scenario was echoed by several of the parents. The associated frustration was experienced by both those parents who approached CYF of their own volition and those who were referred via another agency. In the former cases it was used to deny access and in the latter to deny extended services. Four families sought CYF assistance of their own volition and all met with a similar response.

I was ringing this woman at Social Welfare. She was saying to me, "No, it wasn't really bad enough, because Stephen wasn't suffering." Except for the fact that he was sleeping on the streets or wherever he was sleeping. Then about a week later a friend of ours found a home for him. Like a foster home for him to stay in.

Social Welfare were still saying, "We don't think you're in crisis. We don't think you're a priority," because the child wasn't in danger. (Zoe)

I just felt that it wasn't an important enough problem for them (police) to really be bothered with. After that incident where they (police) rang them (CYF) in the middle of the night, we came through to Hamilton and spoke to a lady there and basically they didn't want to know. They didn't want it to be their problem. I think because they considered that she wasn't in an *at risk* situation. They said 'Oh, there's places like Odyssey House and some other place down south, but you can't get into those places unless it's absolutely desperate. (Pauline)

Kids like Hamish fall through the cracks. That's what he (CYF social worker) said. They fall through the cracks. And I said, "Well, what can we do about that?" and he said, "We can do nothing. The system doesn't allow for it; it's not our job to get them out of there. We have got enough to deal with. We're under-resourced, over -." I mean, Christ Almighty, it was as though he was looking for sympathy! ... They said foster homes weren't the answer because there was no discipline to keep the kids there - they weren't secure, and that he would have to do something really terrible - probably to me (Frances) - to get into something more secure. It just kept coming back to 'No, we're busy. We can't help. I'm only a relief worker. I've got an enormous caseload, my supervisor's away, so I can't refer to her...' (Tom and Frances)

Children and Young Persons didn't want to know. Again, it wasn't serious enough for them. (Andrew)

There are indications here of recognition by the professionals of serious problems, but decisions were clearly influenced by available resources. On the one hand, for instance, there is an admission that Hamish's problems are so serious that foster care would be inadequate, while on the other hand there is a clear indication that his problems are insufficiently serious (in light of prevailing caseloads) to warrant expending official funds. Despite the consensus that Hamish is out of control, and the parents' admission that they could not cope alone, that they should have sought help earlier (in fact, they did, though usually to no avail), such matters were inconsequential in terms of the decisions of the social worker. Stephen's aggression, drug use and absconding were equally inconsequential as were Carla's, despite both being in their early teens. Although deciding that Stephen was not *at risk* at night on the streets, CYF threatened Zoe with prosecution if Stephen was left at home alone during the school holidays.<sup>3</sup> Along with Andrew, all four families were denied assistance, though Andrew was given some advice on how to conduct a family meeting to address his daughter's behaviour.

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<sup>3</sup> Zoe was not in a position to take leave from work during school holidays, and Stephen would not countenance a babysitter or going to his grandparents' home, making absconding likely in both cases.

### *Defining at risk behaviours*

Clearly, these cases were being considered relatively rather than singly, in apparent contradiction to the definition of isolation given earlier. Closer examination, however, suggests that the context is awry. The cases were considered relative to resources and relative to other cases in terms of severity, but were not considered relative to the degree of deviation from the normal social environment except in as much as it was useful for comparison with other cases. Deviations from social norms *per se* were not the context relative to which decisions were to be made. The cases were not considered in isolation, in terms of what might be considered the child's normal social life and societal expectations, but were instead measured according to criteria related to the rationing of services. That is, definitions of *at risk* behaviour were inextricably linked to resource constraints, resulting in a significant gulf between the parents' expectations and the actions of the professionals. Thus parents' efforts were again frustrated and at the same time they were isolated from possible avenues of help on the basis that their child was not bad enough.

A further point to note is that, without exception, parents who approached CYF for assistance were unsuccessful in their attempts, even in instances which also involved the police. It is also disturbing that, for those parents who were denied direct assistance from CYF, there was seldom advice or information as to what other agencies might be of assistance. For parents whose children sought help (discussed below), the reverse was the case. This supports the contention in Chapter Five that the current legislation enables children and young persons to activate the relevant processes more readily than parents and favours the professionals in determining the existence of *at risk* behaviour and a need for care and protection. The parents' incapacity in this regard contrasts poorly with the ability of some of the children to mobilise the child welfare network. There were no reported instances of approaches to CYF by children or young persons being unsuccessful, though it is accepted that the parents may have had no knowledge of any such attempt. The experiences recounted by the parents suggest that parental definitions of *at risk* behaviour are accorded little validity by the various professionals and that children and young persons are more likely to influence the professionals than are their parents.

It is not intended here to imply that the professionals are inept or that all approaches from parents should result in active intervention. Again the medical analogy is useful in demonstrating the process. It is sometimes the case that anxious parents seek medical help for ailments which do not require medical intervention. It is incumbent upon



doctors to ensure that resources are not wasted on unwarranted treatments, while at the same time ensuring the parents are treated with dignity and fully informed of relevant factors, including advice on other avenues which might be helpful. Their positions as professionals require that they make such decisions and fulfil such obligations. Some patients may still feel poorly served by the lack of active intervention and a similar circumstance pertains in the welfare sector. For the families in this study, denial of services was seldom accompanied by advice and referral and the parents did not experience the interaction as according them dignity. Furthermore, since assistance was denied on the grounds that the behaviour in question was not bad enough in relation to other cases and prevailing caseloads, resource considerations served to undermine the intentions of the legislation. It is not sensible to suggest that the behaviours causing concern to the parents (drug and alcohol abuse, absconding, living on the streets, aggression, theft and vandalism, sometimes by offspring still legally defined as children) are akin to colds and abrasions in the medical model. The behaviours, and their continuation, escalation or severity are well beyond what might commonly be regarded as a normal component of the turmoil which often accompanies the teenage years. The medical equivalent to the circumstances of these families lies more properly in those cases where patients who do require extended services are denied them, or are required to wait for them due to resource constraints. Disaffection is inevitable – and frequently publicised in the media. The struggles of parents of *at risk* offspring seldom attract attention, though their plight may be equally distressing.

### ***Extended contact with the professionals***

Contact with CYF was considerably more extensive for those families whose contact was initiated by other professionals or the children themselves. Despite an existing involvement with CYF, some of these families experienced problems similar to the four families above in that they were frustrated by an inability to influence the decisions of the professionals. Trixie had come to CYF's notice while still at intermediate school, as a result of which Cathy, CYF and Special Education Services worked together to enroll Trixie as a boarder at a northern girls high school. Both Cathy and Trixie were delighted with the arrangement and the third form year passed relatively quietly. The improvement was not permanent however, and Trixie was expelled for drug use in her fourth form year. She absconded on the bus journey home to her mother, though over the following weeks she maintained contact with Cathy by telephone. The police did not consider it worthwhile to trace the calls, but eventually found her in another town and called Cathy.

They told me that they'd keep her there, but they couldn't hold her there till I got there, so she jumped out the window and ran. We were going up there the same day to get her, but they said they couldn't make her stay there if she didn't want to, which I felt was ridiculous. (Cathy)

Trixie absconded, but eventually returned to her mother's for long enough to convince the high school to take her back, though not as a boarder. Instead, she boarded with a local family for whom Cathy has come to have great admiration. Their attempts to elicit the police's help when 14 year old Trixie became involved with a much older male were also fruitless:

No, they wouldn't do anything. Trixie knew it too. They just said that they - bit like domestic violence really - they didn't want to get involved. (Cathy)

Trixie moved in with the older man, secure in the knowledge that the police would not intervene. Unable to influence the police, Cathy sought further help from CYF. At this point the responses she was getting invoked a strong feeling of powerlessness, and again reflect the problem of meeting the professionals' definition of *at risk* behaviour.

I think really what it came down to was she really wasn't bad enough. That was what came through. She was in the starting bracket and they didn't want to know about it. They had no back up - their reserves were stretched. So unless she did something really bad you weren't - that's the thing that came through all the time. In fact that's the one line that came through all the time - "Trixie is not bad enough." I mean, what do you have to do? We were told by a social worker that they had arsonists there who they couldn't do anything for because they had nowhere to put them. "We've got no homes to put them in. What do we do with them? We're stuck. They've just got to stay in the community and we know they'll re-offend again." But they knew damn well that she was not in a good environment, but, although the social worker knew it, and he wanted to do something about it, she wasn't bad enough. (Cathy)

Cathy was anxious for the wellbeing of Trixie and the child she was carrying, both in terms of the drug abuse and her primitive living conditions, and wanted her removed from the situation. Trixie, however, was deemed insufficiently *at risk* to warrant further intervention, especially when compared to arsonists. Despite Cathy's continuing concerns and her clear dissatisfaction with the inaction of the professionals at a number of points, she acknowledges their positive contributions at other points. Much of her frustration centres not on the attitude of the professionals, but on their inability to take the actions that they often wished to take. In this instance, the decisions of the professionals reflect the paucity of appropriate facilities following the retrenchment of residential and secure facilities during the previous two decades. Again, resources are

implicated, though changes in ideology and psychotherapy were also instrumental in the closures.

These aspects aside, the scales, Cathy felt, were weighted decidedly in Trixie's favour even in those instances where the agencies did help. She reiterated the other parents' concerns over the limits to police action, particularly in terms of physical contact, and recounted an incident in which the same problem occurred with a social worker:

When he put her in the family home, he went to see her one night and she was "Get me out of here, get me out of here!" Now she went out to his car and she jumped on the bonnet, but of course he couldn't touch her. He couldn't grab her by the scruff of the neck and say, "Get off my car." He had to say to the lady running the home, "Look, you're gonna have to get her off." You know, I mean, there's a physical example of his hands being tied. I mean, I don't say social workers should be allowed to beat them or anything, but ... (Cathy)

Cathy's frustration was matched by Trixie's appreciation of her minimal chances of being held to account. Irrespective of the concerns and wishes of Cathy and some of the professionals, Trixie, still fourteen and with a history of truancy, promiscuity, absconding and drug abuse, was enabled to live in circumstances that were unlikely to improve her behaviour. Given that the two statutory agencies specifically responsible for the care and protection of young persons, and from whom Cathy expected help, were unwilling or unable to intervene, the sense of powerlessness that overwhelmed her is understandable. If the might of these two agencies could not be brought to bear on the situation, Cathy felt her own position was even more impotent. At the time of the interview Trixie was 15, still living with her boyfriend and in receipt of an Unsupported Child Allowance.<sup>4</sup> In what Cathy felt was the ultimate insult, she has been billed for regular liable parent payments.

Michelle's attempts to influence the professionals were equally ineffective. Nita had embarked on a pattern of repeated absconding, sometimes returning home of her own volition, sometimes returned by the police. When Youth Aid eventually became involved in Nita's absconding, vandalism and substance abuse, Michelle found herself the target of accusations of abuse and violence.

This one particular morning, I got called in by the Youth Aid Officer and she just ripped into me, and she didn't ask for my side of the story or anything. She just accused me of all these things Nita had said I'd done - that she came from a house of violence, and that we didn't care and that her father beat her up when she was

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<sup>4</sup> This allowance is paid to the person with whom the child or young person is living - in Trixie's case, her boyfriend's uncle.

younger, and things like that. And I sat there and listened to this and was just blown away. And very difficult to state otherwise ... they made it very difficult. She did not believe me when I said it was - that's a load of bull. Absolutely did not. (Michelle)

With seemingly no right of reply, unable to influence the assessment of her role in Nita's problems and ashamed and demoralised, Michelle clung to the one glimmer of hope that, though any subsequent assistance might be based on false grounds, Nita might finally receive some help. The accusations, Michelle thought, were sufficient reason for CYF to become involved and the real nature of her problems would surely come to light. The case was not referred to CYF however, and Nita was returned home as usual. Michelle was also now very conscious of the fact that anything she did from that point on was likely to be misinterpreted by the authorities, in the light of Nita's accusations of abuse. Nita's offending eventually resulted in a referral to CYF, and Michelle once more felt powerless in her attempts to be heard by the professionals. When the decision was made to send Nita to live with her father, Michelle objected strenuously. The response was perfunctory.

I'll note your concerns. Those were her exact words. "I'll note your concerns."  
(Michelle)

At no stage did Michelle feel her objections were seriously considered by the professionals. The results for Nita were disastrous, though there was no acknowledgment that Michelle's input could have been valuable. While there was acknowledgment that Nita's behaviour was sufficiently serious to warrant intervention, Michelle found herself increasingly excluded from the decision-making process and frequently uninformed of Nita's progress. Michelle was frequently unaware of arrangements that had been made regarding Nita and was not informed of several episodes of absconding. Consultation and access to information were also problems for parents whose children had initiated CYF involvement.

### ***Accessing CYF – children and young persons***

Mona and Dave's daughter, Anna, stole the family car and was stopped by her father some forty minutes later. He removed the keys, admonished her vigorously and Anna (who did not have a licence to drive) chose to walk away with the friends she had taken as passengers in the car. When she had not returned home by nightfall, Mona and Dave began calling her friends, but had some difficulty in obtaining information.

We tried not to bring their parents into it, but in the end we had to because the child was not giving us any help so we had to go to the parents. Eventually after much cajoling and so on, we discovered that she had spent the afternoon at the police station. She had gone there voluntarily to complain that she was being abused,<sup>5</sup> beaten up. (Mona and Dave)

Both the police and Youth Aid were reluctant to divulge information though, after much persistence, Mona and Dave eventually learned that Anna had been placed in the care of CYF and taken to another town. There had been no notification to the parents from any of the professionals involved and attempts to obtain information on Anna's precise whereabouts on the Friday evening were rebuffed. Mona and Dave felt totally out of their depth at this point. Despite their distress, the professionals were immovable.

So there was nothing I could do about it at the time, right then and there, because it was in the hands of CYPS - and it was the weekend. We were just totally lost. We didn't know who to get in touch with or anything. (Mona and Dave)

Their over-riding concern was for Anna and their efforts were concentrated on finding out where and how she was. Though frustrated by the lack of forthcoming information, it did not occur to them to ask if they have any particular rights in situations such as this. Section 229 of the CYPF Act stipulates that, unless it is impractical to do so, parents must be informed when their child is at a police station for questioning in relation to the commission of an offence or is being arrested. There is no similar requirement under the care and protection sections of the Act. In essence, there is no requirement to contact the child's family at all unless investigations reveal the need to convene a FGC. If children or young persons are placed in the care of the Director-General because of concerns for their safety, the parents have the right to apply to the courts for the release of, or access to, their offspring under Section 44 of the Act. They must first know that the child has been so placed. Mona and Dave had great difficulty in ascertaining this. Neither the police - including Youth Aid - nor CYF informed them of their right to apply for her return. Once again, the parents were not cognisant of their rights and options and were not relieved of the burden of their ignorance by the officials with whom they had contact. Although unaware of their rights under Section 44 of the Act, they were affronted by the actions that were taken by the professionals in the absence of any contact with, or consent from, the parents. The result was confusing and demoralising, with no indication that their experiences had served to expand their knowledge in any substantive manner.

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<sup>5</sup> Anna's allegations included sexual abuse by her father.

I mean to me, I don't know what the legal aspects of things are but it doesn't seem right that they can take her, that they can talk to her, that they can send her away, that they can do things for a kid that's under age, without parental consent or any parental knowledge. But then what do I, as a parent do about it? I guess we've been lucky in that this has only happened once, so I guess you can cope with that, but if it was continuing on ... (Mona and Dave)

Mona and Dave faced further difficulty in ascertaining exactly where in Hamilton Anna had been placed. On finally making contact with CYF (after an agonising weekend) their isolation from their daughter was further entrenched by an initial reluctance to divulge Anna's exact whereabouts. Disclosure of this information subsequently led to a confrontation with the social worker in regard to the appropriateness of the placement and possible alternatives. It was not a placement the parents thought was appropriate, but altering the arrangements appeared to be impossible at first.

I said, "Well, I don't agree with this. This is not right." The response was "Oh well, there's nothing we can do about it now. That's where it is, that was her choice." (Mona and Dave)

The polarisation between the parties effectively deflected the focus from addressing Anna's problems, with both parties distracted by the struggle for custody of Anna and control of the decision-making process. CYF had no option but to treat Anna's allegations seriously and to take steps to ensure her continuing safety. For Mona and Dave, however, the situation was untenable. Concerns for Anna's behaviour and safety became enmeshed in feelings of abject alienation and the sense that any actions on their part would be subjected to minute scrutiny, given that they were already under suspicion as possibly abusive parents. This in turn resulted in the parents engaging in similar behaviour, searching for signs of suspicion in the comments of the professionals.

I try and cope with my own gut feelings and just react in the way that I feel is right, but trying to look for hidden meanings in what people say. (Mona and Dave)

Mona's attempts to respond openly became more and more guarded for fear of misinterpretation, until eventually she stopped contributing.

Then I sit there like a dummy and I feel like a dummy. (Mona and Dave)

Thus, even where initial problems with information flow can be overcome, secondary problems with information flow ensue as a result of the nature of the reasons for intervention. Whether guilty of abuse or not, the parents are likely to present a defensive reaction to the allegations. Antagonism is inevitable. Clear conflict exists between the

protective role expected of the professionals and the parents' corresponding role as possible threats. This conflict is further complicated when parents are not abusive, as alleged, and anxious to secure the return of their offspring. The protective role of the state necessarily works against this for a time. The resulting discord between the parties again leaves parents isolated - from their child, from identification with the norms in their community, and from the support they might otherwise expect from the professionals.

### ***Problems with privacy***

Removing a child from the family home is not usually undertaken lightly and immediately results in isolation of the child from the parents, at least physically. Most problematic are those occasions on which the child has been critical of, or made allegations against, one or both parents. Children or young persons who have confided in a school counsellor, social worker, doctor, teacher or police officer often do so only because they are aware that the communication's confidentiality will be protected. Along with the right to privacy, fears regarding the continuing wellbeing of the child may preclude disclosure to the parents, or this information will be disclosed to the parents as and when the child is ready. This is sensible, if a little disconcerting for the parents in the short term. These episodes might be considered akin to those medical emergencies, where parents are relegated to the periphery in the short term. Although parents may be on the periphery during acute phases of an illness or injury, they expect to be an integral part of the child's treatment and recovery, consulted and informed throughout the episode. Similar expectations apply to those professionals working in the youth justice or care and protection areas, and there is a sense in which parents are even more reliant on these professionals than they are on medical professionals by virtue of their greater unfamiliarity with the territory. Mona and Dave, however, were not kept apprised of on-going events or possible outcomes. Instead, they were subjected to stalling tactics and, when information was forthcoming, it was insufficiently detailed.

The parents were then left in the untenable position of trying to rectify a problem to which there has been only vague reference, or unable to defend themselves against equally vague aspersions. Furthermore, the parents were once again reliant on the professionals for knowledge as to what information they may or may not be privy to, since few were conversant with the intricacies of either the privacy legislation or the Children, Young Persons and Their Families Act. For Mona and Dave the result of these multiple considerations was a harrowing episode during which their interactions

with the professionals were clouded by the knowledge that they were suspected of abuse. At a more personal level, their actions were all the while underscored by bewilderment and deep distress at Anna's allegations. Their isolation from her allowed them no means of developing an understanding of her actions. They eventually negotiated with CYF for Anna to stay with an aunt in Auckland for a short time and, by the date of the interview, Anna was back at home.

This was achieved through the efforts of Mona and Dave in gathering the support of extended family in refuting the allegations. Mona also enlisted the support of a community group, through which she also accessed counselling for Anna. The police and CYF had withdrawn from the matter and for all intents and purposes the case had been closed. Though Mona and Dave had endured a range of actions and processes with both agencies, this chapter in their lives had concluded (officially, at least) with them being no more *au fait* with their rights and legal status than they were when it began. Their knowledge of the systems and processes involved was constrained by the failure of the professionals to impart the relevant information and consultation was non-existent for the majority of their contact with the professionals. Far from facilitating a resolution of the problems, the response of the official agencies was experienced by Mona and Dave as more in the nature of a blockade. The defensive position in which they had been enmeshed was not unique to this family.

Although their daughter's shoplifting was not referred to CYF at the time, Agnes and Theo later found themselves attempting to defend their parenting efforts to CYF. Megan's behaviour had continued to cause concern following her shoplifting, and after turning 16, Megan moved out of the family home, refusing to live within the boundaries set by her parents. She was granted the Independent Youth Allowance (IYA). Her parents were concerned at the ease with which she had obtained it, although they acknowledged that she was legally entitled to move out of home. Moving out, however, did not automatically qualify her for a state benefit. Megan needed to prove it was impossible for her to continue to live at home, or that her parents refused to have her at home. By the time Theo and Agnes became aware of her intentions to leave home, however, all the arrangements were already in place. Megan was in a flat and in receipt of the allowance. Brenda had a similar experience with her daughter, Georgie who was just fifteen at the time. Like Megan, Georgie had not been thrown out of home, but this was never verified and she was given the Allowance and moved into her boyfriend's home



without any contact between CYF and Brenda having taken place.<sup>6</sup> In similar fashion (though the allowance was not an issue at the time), Yvonne's daughter, Grace, was taken into CYF care when Grace's older sister decided Yvonne was not a suitable mother.

She told Social Welfare we kicked her out and wouldn't let her come home - and they gave it (the allowance) to her. (Agnes)

She brought herself to the attention of Social Welfare. There'd been on-going problems at home for quite a while and there was a crisis one particular morning when I said to her that if she couldn't live the way we wanted her to live at home, then perhaps she better find somewhere else to live. So she went to the school counsellor and said she'd been thrown out of home. The counsellor made an appointment for her with Social Welfare that she kept that day, and she came home at night and said that she'd had this interview with this person and she was given the Independent Persons Allowance. (Brenda)

There was an episode where the police were called and I was not there and Grace was placed, I guess you could call it, by Children and Young Persons service for that night. Hope had decided that I was not only not fit for her and Quentin (Hope's boyfriend), but that Grace also needed to be taken away from me. She said that I was being ... abusive. (Yvonne)

As with Anna, in all three cases the systems and processes of the child welfare sector were successfully set in motion by the teens. Furthermore, in all cases action was taken by the professionals before any contact was made with the parents and such contact as did ensue was initiated by the parents. All the parents were anxious to elicit information about their child and the basis for the actions taken. They were also concerned to offer information regarding their offspring's claims. While the parents readily acknowledge their reliance on the professionals for accurate information, there was no reciprocal acknowledgment from the professionals. Once again the parents encountered problems in obtaining information and their attempts to influence the decisions of the professionals met with mixed success. Theo and Agnes contacted Social Welfare and invited them to their home to establish what grounds there might be for Megan to be unwilling to live there.

So my husband went into Social Welfare. He said, "We haven't kicked her out. It was her choice and we don't want her to get that living away allowance because if you don't give it to her she'll have no money and she'll have to come home." We begged and pleaded with Social Welfare. They never verified her story with us. We rang them. They didn't ring us. Theo said to them, "Why don't you come round to our place and see what kind of home she lives in, see that it's a stable loving trusting home and there's no problem. She's not abused physically or mentally, sexually there's nothing ... She's got a happy home." They said, "Oh no,

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<sup>6</sup> The minimum age of eligibility for the Independent Youth Allowance has since increased to 16.

we don't come round to parent's houses. We protect the right of the child.” (Agnes)

Agnes and Theo were unable to change the decision to grant Megan the IYA, and Megan received no counselling or assistance other than monetary.

They gave her the money when she needed it, but they didn't give her any help other than that, and they didn't really try and find out the reason or help her get through. They just sort of hand out money and say, “Here you are, go live!” (Agnes)

The accuracy of Megan's claims was not investigated, and when information to the contrary was presented, it was ignored. It is worth noting that this information was not sought by the professionals. There was no acknowledgment by the professionals of their ignorance of any relevant information, their actions being premised entirely on Megan's account of her home life. Thus, the ignorance of the professionals presents a further problem with which the parents must cope. The actions of the professionals not only served to widen the chasm between Megan and her parents, but also served to engender further feelings of inadequacy and isolation in Agnes and Theo.

They never saw what kind of home she came from. They just said that she's at the age where she needs some space and yet 3 months before that we'd been away together, I mean it was - we're a really close family. It just kind of blew the family apart. It was just devastating ... (CYPS said) “Oh, she might go out on the streets and become a prostitute and we're looking after her. So we think that she needs a bit of space from you so we're going to give it to her.” (Agnes)

Theo was so distressed by the attitude of the professionals that he had to be physically removed from CYF's offices. While unsuccessful in changing the decision to grant Megan the allowance, Agnes and Theo's efforts eventually prompted the professionals to schedule a FGC. Agnes and Theo were not consulted about the timing of the conference and when informed of the date and time, Theo was unable to reschedule his work commitments.

They asked for a Family Conference for us to go in and talk to them. My husband had to go to Wellington for work and he asked if we could put it back a day, a day only, and they said “If you can't come when we want you to come, don't bother coming.” (Agnes)

The conference was never held and a possible opportunity for resolving matters was consequently lost. Theo and Agnes were left feeling powerless to do anything more for a daughter who had recently admitted to frequent shoplifting. Megan's benefit, and the response from those who granted it, effectively removed any parental influence and

interests from Megan's life. The rights to exercise care and control over their daughter, which they had previously taken as a given, terminated abruptly with her sixteenth birthday and the intervention of the state. It is also noteworthy that the professionals were concerned to prevent the possible detrimental effects that could ensue if sixteen-year-old Megan were to resort to the streets. Similar concerns expressed by the parents of younger teens (Nita, Hamish, Stephen, Trixie and Carla) who absconded did not prompt active intervention - if indeed financial assistance alone can be deemed active intervention. The issue here is not a financial consideration (though it may well have been for the professionals, since the IYA payments are not made from the CYF budget, while assisting the younger teens would have committed CYF funds). The point to note is the conflicting assessment of the dangers of living on the streets. In the cases of the younger teens, the dangers were officially deemed by the professionals to be insufficient to warrant intervention.

Brenda's experiences echo those of Agnes and Theo. She acknowledged that her sexuality was difficult for all three of her daughters to accept initially, but felt Georgie was using it as an excuse for her behaviour. Brenda had no opportunity to voice her concerns, however, before the allowance was granted and Georgie moved in with her boyfriend.

No contact with me, but there was contact which I understand was initiated by my ex-husband, between himself and the social worker, the same day. I rang him to tell him what had happened and that evening he rang - he knew the social worker professionally - and rang him at home and had a discussion and then came round and told me I wasn't a fit mother, that she should never live with me again. The social worker said she would never live with me again. (Brenda)

As with Megan's case, contact with CYF was initiated by a parent (Georgie's father), not CYF. This did not result in any change in the decision, though it is doubtful that Georgie's father attempted to change the decision. Brenda was understandably defensive regarding her sexuality, particularly in light of her husband's attitude and the reported remarks of the social worker. Brenda is convinced that the decision to grant the allowance was based on her sexuality, a conviction she formed when hearing Georgie's account of her interview with the social worker. She was further concerned when Georgie confided in her regarding unwanted advances by her boyfriend's stepfather.

Georgie had some problems with the boyfriend's stepfather touching her inappropriately and her boyfriend said that he'd done the same thing to him and his brother, but that if she told anybody, he wouldn't support her. (Brenda)

Despite the boyfriend's reluctance, Brenda and Georgie decided to report the matter, because Georgie was concerned for two young boys also living at the house. Their visit was unproductive, as was a meeting Brenda eventually secured with the psychologist to whom CYF had referred Georgie.

I went into Social Welfare and I saw the psychologist who felt that it was all Georgie's fault, which in one sense was (true). I desperately needed somebody to tell me that I wasn't a wicked mother - but it didn't help either of us. I don't know whether she'd done a formal assessment of Georgie, but she'd certainly been referred to her by the social worker and she had seen her. (Brenda)

Although the psychologist supported Brenda's assessment of Georgie's behaviour, there was no movement in the original decision and Georgie lived with her boyfriend for the next six months. She then had a series of flatting situations and ceased attending school, working in a variety of unskilled occupations. She eventually became pregnant by one of her flatmates, though the relationship did not last and the baby was adopted. Although Brenda continued to maintain contact with Georgie, she was unable to influence her to any significant degree. Despite being unimpressed with the manner in which Georgie was enabled to leave home, Brenda was philosophical in hindsight.

I have to say that her leaving the home was helpful to all of us, so in one way it was a solution, but it was only a partial solution. I think that through all of that I developed better skills myself in terms of parenting, because I then reassessed my parenting. (Brenda)

While Georgie's behaviour and the manner in which it was addressed by the professionals may have prompted this reassessment, any initiatives for improving her parenting were Brenda's and arranged privately. CYF provided no counselling to Georgie - like Megan, she was given financial assistance and nothing more.

### ***The advantages of greater knowledge***

The third household affected by a disaffected daughter was not troubled by the granting of a benefit, though problems in accessing information in the early stages was again problematic, this time due to a sibling. With Hope refusing to tell her where Grace was, Yvonne turned to the police for assistance, with positive results.

I was trying to find out where my 16-year-old was. So the police came. That policeman was actually really lovely. So it is about the attitudes of the people who come at the time, and he found out for me that Grace had been - that CYPS had got involved. Now, the police had got CYPS involved somehow. So I thought if you want to know anything, you phone CYPS. So I phoned CYPS and there seemed to be some delay in when I could be spoken to. (Yvonne)

Yvonne was eventually told where Grace was, disagreed with the placement and negotiated an alternative. She also made an appointment to meet with the social worker the next day. In the interim, she used her own position and networks to find out as much as she could about the social worker with whom she had the appointment.

In fact I was very fortunate I think in the social worker I worked with. (I asked) Who is this woman? Tell me about her. Background, background! I was delighted to find that the social worker was somebody who worked for Rape Crisis and who had that sort of analysis and who could understand some of the things that I was saying to her really. (Yvonne)

Yvonne then, was very active in seeking out information that might help her, though the resources at her disposal were vastly superior to those of most parents. She was considerably more *au fait* than most other parents with the systems and processes of large organisations and worked in a field with some association with the child welfare sector. Her networks were therefore helpful not only in obtaining information for her when required, but also in helping to establish her credibility with the child welfare professionals with whom she had contact. Her work also enabled a good understanding of the culture and ethos she was likely to encounter at CYF, and she directed her efforts accordingly. Like the previous parents, her efforts reflected her stated focus - achieving the return of her daughter. Her own rights and legal position were, at best, secondary, though she had a better understanding of such matters than the other parents. At her meeting with the social worker Yvonne learned that actions had been taken in regard to Grace, which she felt she should have been a party to.

What was interesting was that she'd interviewed Grace at school (I feel a bit cross about this) without me knowing. She had also called in a clinical psychologist to do an assessment on Grace, to see whether Grace was depressed. I was given no information about who that person was, what the relationship was, what might happen next about that. (Yvonne)

Despite these misgivings, Yvonne maintained her focus. She was quite clearly aware of the ways in which her position as a parent was undermined in this process, but let matters rest in the interests of retrieving her daughter. Her actions suggest that parental cognisance of their rights and legal status will not necessarily result in increased conflict or polarisation. In her case, it worked to the opposite effect and contrasts sharply with the experiences of those parents operating under the mantle of insecurity that is attached to ignorance.

Those things had happened and I wasn't - I was there to get Grace back home. And that meant being nice, so I learned the two-facedness of being a client. (Yvonne)

Her description of her own actions as two-faced suggests that she was concerned that asserting herself might jeopardise her main intention. Even if her actions are interpreted as a compromise rather than as two-faced, it is clear that the parent's desire to help the child can itself be a barrier to resolving the problems of ignorance, isolation and impotence. Parents may well feel that asking questions about their rights, let alone attempting to assert their rights, will antagonise those with whom they are negotiating, and frustrate their efforts in regard to the child. Yvonne's knowledge allowed her to make a conscious decision not to press these matters, with positive results. Other parents did not have this opportunity and their interactions with the professionals were coloured accordingly.

As a result of Yvonne's efforts, Grace was placed in temporary care with some family friends. Within a few days, she was anxious to return home, to which Yvonne agreed. While this solved Yvonne's immediate problem, Grace's behaviour was still a cause for concern. Yvonne felt much of this was due to a single factor – Grace's knowledge of the availability of the IYA, which she held over her mother as an instrument of escape. Yvonne felt Grace was encouraged in this direction by one of the professionals.

The school counsellor kept telling Grace that of course Grace was - she'd seen all these events that her big sister was starting to move into, she wanted her independence. She knew lots - she had been running with a bit of an edgy crowd who were living on the Independent Living Allowance. This bloody school counsellor kept informing Grace that that was always an option for her. And whenever I was discussing to try and get some constraints around Grace, this was what was (repeated), "Well, you try and get me to do anything and I'll get the allowance." (Yvonne)

Yvonne had attempted, unsuccessfully, to curtail the counsellor's influence on Grace. She considered the counsellor's involvement served only to exacerbate the cleavage between herself and her daughter. Matters came to a head when Grace absconded with her friends one night.

There were a bunch of boys who were living in cars and they were her friends. I found that the boys were in fact sleeping in the car in our driveway. She took off with these boys in the car and didn't come home that night. So I rang CYPS and said, "What do I do about this then?" And what's more this was when the school counsellor was feeding the "You can have the Independent Living." She was thinking, "Hundred dollars a week, off with the boys in the car, tremendous!" And I got very angry with CYPS and said, "Look, this is the time, this is what I'm

doing. I'm not going to be told that I'm an unfit mother by a school guidance counsellor. I would like you to tell her that this is what I'm doing." I actually was very aggressive with them and said, "I want you to come and deal with these boys that are running, because some of them are 15 and 16." And that all was picked up very quickly. (Yvonne)

CYF responded quickly in removing the boys and, with the boys gone, Grace remained at home. CYF also spoke to the school counsellor, who thereafter refrained from reminding Grace of the availability of the allowance. Grace became more settled and Yvonne had no further contact with the professionals. Hope moved out to live with her boyfriend and her relationship with Yvonne was strained for a time. She has since returned home, a result partly prompted by problems with her boyfriend, but also encouraged by Yvonne's patience and understanding. Like Brenda, Yvonne reports that her struggles with her children and the professionals had been a learning experience.

I would come home from work and she would have been home for an hour, and I'd go to the fridge and I'd find that she had fed all of these boys. So I stopped that. When the boys were sleeping in my driveway, I started to try and get her to take control of those relationships, which is not what I had done with Hope and Quentin. I had taken control. So I had learned to be different. (Yvonne)

Of all the parents who had extended contact with CYF, Yvonne had the greatest success in influencing the professionals. While other parents also held professional positions, none had as useful a personal network or understanding of the culture of the child welfare sector as Yvonne. Although it is not sensible to suggest that all parents be equipped with the knowledge and skills possessed by Yvonne, her experiences provide substantial evidence of the ways in which overcoming ignorance of the sector facilitates a considerably more positive outcome for parents. Despite her knowledge and skills, however, Yvonne's experience with a family meeting bears a strong resemblance to that reported by Andrew.

The social worker said, "I think that you need to have a FGC. Either you can convene it, or I will." And so I asked Grace and she said, "No, I'm not having any talks with all of us!" and so I surprised her with it and have never had such a useless and frustrating meeting. And it was simply because I should not have been in a position of being the person trying to convene the thing. Because I ended up facilitating everybody else's capacity to talk and had no place to put a voice in of my own. (Yvonne)

Both Andrew and Yvonne were disappointed in the efficacy of the family meeting. For Andrew, the fault for the failure of the meeting to achieve its intent was entirely his own. Yvonne casts the matter in a different light. While it is clearly impractical for CYF to convene all family meetings, there is merit in the notion that meetings be facilitated by a

party not intimately involved with the problems. In both cases here, the parents adopting the role of meeting convenor effectively aided their own disempowerment within the process.

### ***Conclusion***

Examining the parents' interactions with the professionals in detail allows a greater appreciation of the multiple factors which influence both the parents and the professionals. Extraneous considerations - particularly funding - are often decisive in determinations by the professionals regarding the child or young person. The poor public image of CYF precluded the involvement of one family and has the potential to affect negatively the interactions of parents who do become involved. While some of the interactions were positive, most were not. The parents sometimes demonstrated an appreciation of the constraints faced by the professionals, though some of these constraints were more apparent than real, as the next chapter will show. Fiscal constraints effectively undermined the intent of the legislation in that assessments of *at risk* behaviours were undertaken on a comparative basis related to other cases and prevailing caseloads, rather than in terms of social norms or legislative requirements. Fitting the appropriate access criteria therefore became insufficient grounds for accessing assistance. The resultant rationing of services was most keenly felt by those parents who approached CYF for assistance. They were uniformly unsuccessful in eliciting assistance and seldom received advice on alternative avenues they might explore. Isolation and ignorance persisted.

By contrast, intervention was considerably more extensive for families who were referred by other professionals or by the teens themselves. While the level of assistance differed from those cases where the approach to CYF was initiated by the parents, the relative influence of the parents remained problematic. Suspicions or allegations of abuse were extremely difficult for the parents to address and the problems inherent in the circumstance were exacerbated by the parents' isolation from, and concern for their child. The ignorance of the professionals, which emanated from their failure or refusal to verify matters with parents, was never acknowledged by the professionals. Where abuse was not an issue, the parents still encountered difficulties in influencing the decisions of the professionals. Resource constraints continued to cause frustration in attempts to access further assistance, both in a strictly financial sense and in relation to the availability of specific services and facilities. Professional caution in regard to the law was evident in some incidents, and reluctance to enforce teenage compliance with the law



was also recounted. Together, these factors enabled some teens to live in circumstances far removed from parental expectations. Furthermore, the inability or unwillingness of some professionals to bring their considerable influence to bear on the teens served to amplify the parents' existing feelings of powerlessness.

Parental impotence characterises their interactions with the professionals and much of this is related to their unfamiliarity with the territory. One parent, Yvonne, was more familiar with the territory and its structures, processes and culture. Her experiences demonstrate the advantages of greater familiarity and personal networks in a related sector. The positive impact which resulted from relieving ignorance emphasises the crucial role of information and knowledge in successfully negotiating of the territory. The experiences of the parents in relation to accessing information are investigated further in the next chapter, along with other sources of disempowerment.

## CHAPTER EIGHT

### Disempowerment of parents - and an explanatory theory

Current legislation emphasises family involvement in the management of *at risk* behaviour amongst children and young persons. Successful management requires full and accurate knowledge of relevant information. A large measure of the assistance the parents require in order to fulfil their obligations to their children rests on their ability to access knowledge. In this they are dependent on those professionals working in the youth justice or care and protection fields. Many of the parents reported difficulties in accessing information, some in regard to the services available or their rights, and others in regard to their children's whereabouts or behaviour, or the reasons for actions taken by the professionals. At times, the parents were given erroneous information, though they were usually unaware of this at the time. The process by which these problems occurred is best understood in context. Recounting the individual experiences of the families enables a better understanding of the problems related to information - and misinformation. This chapter traces the experiences of the families with a view to examining the extent to which their ignorance was alleviated and their frustration allayed through their interactions with the professionals.

There is also an examination of other sources of disempowerment, most of which arose in the context of interaction with the professionals. Along with misinformation, the professionals' reluctance to intervene, or failure to follow through, frequently frustrated the parents' efforts. The legitimacy - the extent to which they are considered credible, authoritative, competent and important - of parents is also examined, since this directly affects their ability to influence the decisions of the professionals. The professionals' tendency to blame parent is evident in the parents' stories and colours their interactions, with the most successful parent in this respect again noting the advantages of her own position. The parents' assessments of the various helping agencies are presented, noting that CYF tended to attract more criticism than other agencies. This tendency may have been related to the parents' higher expectations of CYF, as opposed to other helping agencies, in that CYF is charged with the care and protection of *at risk* children and young persons, while other avenues of assistance (schools or the police, for example) have a different primary objective.

The chapter concludes with the generation of a theory drawn from the interview data. This theory seeks to explain the experiences of the parents as they navigated the systems

and processes of the child welfare sector. Alternative explanatory factors are investigated and discarded as inadequate in accommodating the varying experiences of the parents. The parents' stories demonstrate a low valuation is attached to parents by the professionals. The grounded theory posits that parental *mana* is currently at a level so low that it impedes the successful performance of parental duties. The theory further suggests that this is not simply a feature of the child welfare sector, but is part of a wider social tendency.

### ***Parental expectations***

The first point of contact is crucial to parents in terms of information, advice and guidance to a greater degree than is the doctor in the health arena. This aspect is additionally problematic in that some sort of crisis is likely to have precipitated the quest for help and a ready and rapid response is required. If the first point of contact is unable to supply direct assistance, parents require that they are able, at the very least, to supply information and advice on, and perhaps a referral to, such assistance. The breadth, depth and accuracy of the knowledge imparted to them is crucial to an optimal outcome. The initial frustration that their ignorance engenders will be compounded if their efforts to redress the balance are unsuccessful. Crises (whether medical or otherwise) are not conducive to time-consuming research on the parents' part. It is the parents' reasonable assumption that the expertise of the individual or organisation with whom they have initial contact will fill the gaps in their knowledge.

It is also the parents' reasonable expectation that the advice and information imparted will be consistent, particularly in regard to legal and procedural matters. While it is quite in order that specialists disagree about what might be the most appropriate treatment, patients expect a measure of conviction and accuracy in their advice as to what is possible - medically, legally and (perhaps to a lesser extent) ethically. It is unthinkable that a medical professional be unaware of patients' rights to refuse treatment, for example, or to discharge themselves, or to place a "do not resuscitate" instruction on their file. Medical professionals are also expected to be aware of the rights pertaining to relatives of the patient, particularly where the patient is a dependent relative. Parents also expect to be kept fully informed of a child patient's treatment, progress and prognosis, with referral to such support services as may be necessary. Parents who have previously had no need for knowledge of the processes, possibilities and rights and responsibilities of the parties involved in particular circumstances are, when enmeshed in a crisis, significantly more dependent on the advice they receive from these professionals. The

parents require that these professionals fill the gaps in their knowledge, and fill them as accurately and comprehensively as possible. If the first point of contact is not able to supply adequate information or counsel, parents expect that, much like the general practitioner, the police officer or school counsellor will be able to direct or refer them to a professional with more specialist knowledge.

It may seem sensible, if parents require information regarding their legal rights and obligations, to consult a barrister or solicitor, and certainly in disputes between parents (over custody and access arrangements, for instance) this course of action is both appropriate and productive. Divorce and custody proceedings notwithstanding however, family law in New Zealand is not widely embraced by the profession. Judicial and advocacy appointments under the CYPF Act have been constrained by the dearth of candidates experienced in family law and child advocacy (Mason, 1992). Although this scarcity has been redressed to some extent in recent years, those skilled in this area of the law are focussed on the rights and interests of the child, not the parents - on family law as it pertains to child advocacy. Furthermore, the parents' legal standing is never the parents' only - nor necessarily primary - concern at the time.

They also require information about their children's rights, the support services available for both their children and themselves, the processes they are likely to encounter, the usual or most effective (the two are not necessarily synonymous) course of action in circumstances such as theirs, best and worst case scenarios and the respective responsibilities of all the players. These are not matters generally within the ambit of legal practitioners. These are matters which rightly fall in the domain of those professionals working directly under the Act - CYF staff in particular, but also the staff of agencies and organisations (law enforcement, truancy, counselling and rehabilitation services) who operate to a greater or lesser degree in the fields of youth justice and care and protection. These are the specialists from whom parents expect ready and reliable information. The readiness of the information is more than usually critical since the degree of unfamiliarity with the territory will impede even the parents' knowledge of what questions they need to ask.

### ***Information on rights***

The previous chapters indicated that the parents had scant initial knowledge of the child welfare sector and the rights and duties of the various parties. Successful navigation of the sector requires that knowledge be as full as possible and the parents found their

offspring to be relatively better served than themselves in this regard. Marnie's knowledge in this area was shaped almost entirely by her children, particularly her daughter, Louise. Louise and her two older brothers impressed Marnie as being well versed in their rights. She assumed the frequently voiced information was learned at school and from peers, and did not doubt its accuracy. She was subjected to frequent verbal abuse, had holes punched in her walls and furniture thrown at her, all the while believing that any physical response on her part would result in assault charges. Other parents also noted their children's familiarity with their rights and the various sources from which this information was obtained.

Like a couple of times I've said to Louise, "I'll give you a hiding." She says, "You do that and I'll ring the police." (Marnie)

And of course what happens is the schools, quite rightly, tell the kids what their rights are, so Hamish was quoting his rights to this cop. (Tom and Frances)

Shall I say CYPS? They know their rights because they've been here with the older kids when they've been in and out of homes and stuff ... and they used to come back to us saying, "We've got rights; you can't touch us." And that's been what these kids have grown up with. They know their rights and they really put them across to you too. (Tania and Paul)

She is very aware of her rights - from her peers, I think - but not necessarily well versed in her responsibilities. (Andrew)

I think she's had a lot of information on it because she - "you can't do that because you're not allowed to". In this instance I think she must have got it through the police, through the CYPS people, but I think also a lot of it comes through school. (Mona and Dave)

There is a list of rights posted up on the noticeboard that they are allowed to read. They have the right to leave home, they have the right to own a gun, they have the right to get a passport, they have the right to do this and that, and this is shown at school. It's up on the noticeboard. This is what Nicole told me. I haven't ever seen it, so I'm taking their word for it. But they have come home and said to me, "I'm allowed to do this and I'm allowed to do that." And I said, "Where'd you get that from?" "It's up on the noticeboard at school!" (Agnes)

Because she assumed the information her children imparted was correct, Marnie never had occasion to verify it. The other parents were similarly inclined to accept that their children's knowledge of their rights was accurate and this assumption was reinforced by the perceived source of the information. Most of the parents, however, reported difficulty in accessing information in regard to their own rights.

... and nobody - the police or CYPS - nobody told me I had any rights. (Zoe)

Maybe I'm just ignorant - I have no idea where to find out what those rights are. No idea what to do with them anyway, even if I did know. (Mona and Dave)

Certainly the police didn't tell us our rights. CYPS didn't, the NSAD - I don't think they get into that sort of thing. (Tom and Frances)

No, not a thing about my rights (from CYPS). (Michelle)

Adults don't have any rights as a whole ... and nobody's ever told me what rights I have. (Cathy)

And they (CYPS) turned round to Theo and said, "and you have no rights what-so-ever, and that's it." (Agnes)

The parents were generally of the opinion that they had few, if any, rights and were largely unaware of how they might establish the existence and extent of their rights. The tendency to perceive rights as applying to children and the professionals more readily than to parents left them feeling marginalised and ineffectual. An acknowledged ignorance in regard to their own rights was not rectified despite multiple contacts with professionals, and in some cases misconceptions were introduced or reinforced. The relative weight of the rights between parents and children is not important here. Of greater concern is the failure of the professionals to impart relevant information to the parents and the clear perception among the parents and their children that there was a conflict between children's rights and parents' rights. The ready availability of relevant information for children, as compared to the reverse circumstance for parents, should be noted, since it indicates the relative weight attached by the professionals to the respective needs of children and parents for information and confirms that, despite the family ethos of current legislation, child advocacy predominates the sector. While the parents' continuing confusion and misconceptions did little to assist their parenting efforts, the feelings of marginalisation and powerlessness engendered by their experiences in this regard were equally detrimental.

### ***Confusion and misinformation***

Among the concerns reported by the parents, was the need for accurate information about the legal constraints facing themselves and the professionals when their offspring absconded. Michelle was unsure of her legal boundaries and responsibilities when Nita absconded and her experiences with the police did not resolve her quandary on those occasions when she knew Nita's whereabouts, but Nita refused to co-operate. Like Pauline, she did not find multiple contacts with the police were helpful in clarifying her position.

I had been told that there's no way that I could physically put her in my car and bring her home. ... (On a later occasion) the police said, "Well go and get her if you know where she is!" I told them I was told "No, I can't do that" and they just laughed at me and said "who told you that?" and when I told them it was someone at the police station they said "Oh, they've been got at by this children ... CYPs ... and told that nobody can lay their fingers on a child because they will get done," sort of thing. (Michelle)

... and she turned up back in Morrinsville at a girlfriend's house. Refused to come home from there and ... I think she was there two or three weeks - but after a couple of weeks in the middle of the night she took off with these young guys again and the mother wasn't happy. She rang me up and said she didn't want to have her back. I said "That's fine, that suits me." ... they turned up back in town here at this friend's house and she called the police. They sent the young guys packing and Carla went into the house then - after the woman saying that she wasn't having her back. So we went in there, the police turned up and Carla refused to come out and the police just looked at us and said "We can't go into the house and forcibly bring her out." So they rang Social Welfare and they said virtually the same thing. They just said if she's not in an *at risk* situation in that house, there was nothing they could do. ... A couple of weeks after - maybe a month after - the police refused to get Carla out of that house, a girlfriend of hers ran away from home and ran to the same house and when her mother went to the police station and said that she wanted her daughter home, they went down there. The girl refused to come out of the house. They went in and actually handcuffed her - and she screamed and performed - and carried her out of the house and took her to the police station. (Pauline)

They advised us as to how much force they could use - the fact that they wouldn't be able to help us get him in the car if we found him. (Tom and Frances)

Pauline was understandably confused not only in regard to her own position but also that of the police. Like Michelle, she could obtain no satisfactory clarification from the police. Tom was not interested in attempting to use force himself to ensure Hamish's return home, but was left in no doubt as to the police's position. His own position was not clarified. The police gave conflicting or contradictory information and on occasion misled the families as to their respective rights. Ignorance was not abated, nor isolation and impotence relieved in that the parents were initially ignorant of their own and the police's legal standing, and often remained so after contact with the police. The expected relief of their isolation, which the police represented, was thwarted by the impotence inherent in the police's responses. Misinformation was a continuing problem for Tom and Frances, who found little information forthcoming when dealing with the police or Youth Aid. In hindsight, Tom and Frances can pinpoint a number of occasions on which knowledge of their rights and the obligations of state agencies may

well have changed the course Hamish was on. At the time, however, they did not have this knowledge, or ready access to it.

Well, he just got brought home more and more. He came to the notice of the police more and more. They'd find him on the street (and) they started bringing him home saying, "He's *at risk* and if he's not in trouble, he's going to cause trouble." And they would say, "He's easier to bring home now than when he gets drunk. When he gets drunk he's too hard for us to handle." We would tell them sometimes when he got drunk, that we didn't want him home, and they would say, "Tough, you've got to handle him." We've since learnt better. (Tom and Frances)

Although Tom and Frances eventually became aware of their rights in these situations, their ignorance at the time was not alleviated by the contact with police, and, essentially, was used to the advantage of the professionals. Knowledge of the obligations of the professionals – and insistence that they meet those obligations – may well have altered the course that Hamish was travelling. This would have required more active intervention by the professionals, and with it, a commitment of scarce resources. Clearly, advising the parents of their right to insist on assistance would result in increased demands on a sector already having difficulty meeting demand. These fiscal pressures are evident in repeated encounters with the professionals.

Zoe was also initially ignorant of her rights and the responsibilities of the professionals, resulting in similar frustration and dismay at the seeming incapacity of all involved to address thirteen-year old Stephen's behaviour or assist his parents when he absconded. An escalation in the problems Stephen was presenting resulted one night in Zoe and her husband calling the police for very different reasons.

One night he was on the phone, and like, things had been pretty tense for quite a few nights and we were having lots of arguments. He'd go out when he felt like it, and one night it was about nine o'clock and I asked him to get off the phone. He argued with me and I said, "Right, five more minutes." I went and made my husband a cup of tea, myself one, and that took approximately five or ten minutes. I went and said to him, "Come on, off the phone. You've had enough time. I've given you enough warnings." He refused to get off the phone and started abusing me, and I said, "Come on, get off the phone, or I'll pull the phone out of the wall," and he continued to abuse me, so I pulled the phone out of the wall (disconnected the plug), at which stage he picked up the cassette player that was in the room, threw it through one window, then started pushing me around ... went into the kitchen, picked the frying pan up off the bench, threw it through another window... (Zoe)

The police responded to Zoe's call for assistance and in light of Stephen's aggressive behaviour, his parents reasonably expected their response would provide active



intervention and referral to further assistance. In the event, their expectations were met only partially, and there is an element of tokenism in what transpired.

They were trying to defuse the situation and, they were trying to help. I asked that they take him away for a while to give us some space, because I'd just had enough, and they said that they couldn't take him away. We said to the police that he didn't want to live here and Stephen was quite obvious, and he said, "I don't want to be here. I don't want to live here. I hate them. They're the world's worst people ... and if you don't take me, I'm going to keep running away." So Stephen wanted them to take him, we wanted the police - we just wanted a breather. We wanted a night just to have some - no stress, no hassles. They wouldn't take him. They said they couldn't take him. One of the policemen made a couple of phonecalls to emergency Social Welfare. They said they had no beds and they couldn't help us at all. And anyway, the police said that they wouldn't take him. We asked them for help, we said, "Take him! Can you just take him for a few hours, just to give us some space?" and he says, "No, they couldn't take him." But we as parents have the right to ask them to please help us out, please take him. (Zoe)

Like Tom and Frances, Zoe was unaware at the time that she had the right to insist on assistance.<sup>1</sup> The information given by the police and CYF then, was at best inadequate, and at worst, misleading. Zoe and her husband assumed that the information they were given was correct and initially had no means of discovering otherwise. They were equally unaware of the need to seek further information since they had no reason to doubt the information provided by the police and CYF. Both Stephen and Hamish's parents discovered that they were entitled to assistance, though this occurred a considerable time later. In the interim, the parents felt isolated and impotent and - in an ultimate irony - were unaware of their own continuing ignorance. While Michelle and Pauline were aware of confusion in regard to some aspects of their circumstances, they, too, were ignorant of the duty of the professionals to provide assistance. Thus, while unfamiliarity can impede knowing which questions to ask, misinformation can pose similar problems.

The failure of both the police and CYF to provide temporary respite or more prolonged assistance was no doubt a result of practical considerations largely related to resources. Most likely, it was perfectly correct that there were no beds available in CYF's family homes at the time Stephen's family needed respite, and further police assistance may well have been precluded by a lack of facilities and personnel. This does not, however, relieve the authorities of the duty of responding to the needs of a family whose child clearly falls within the definition of a child or young person in need of care or protection under the Act, or justify the transmission of incorrect impressions to the parents. Arguably,

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<sup>1</sup> Zoe was eventually apprised of her rights through her association with Toughlove, as were several of the other parents who contributed to this research.

Stephen's family's problems may be covered under Sections 14(c), (d) or (e), though each of these criteria is open to challenge simply as a matter of interpretation and definition. Under Section 14(c) for instance, debate will centre on the point at which differences between parents and their children become "serious". Section 14(f) however, is unequivocal in this instance. A child or young person is in need of care or protection when the "parents or guardians ... are unwilling or unable to care for the child or young person", and this was clearly the case with Stephen, Hamish, Nita and Carla.

The availability of beds, while a practical consideration, cannot be a deciding factor in assessing the need for care or protection. In Zoe's case it became an excuse, and in conjunction with the police officers' assertion that they could not remove Stephen from the family home, left Zoe with the impression that there was nothing more that could be done, that she had no right to insist that Stephen be removed, and that the law did not allow her to refuse, or be unable, to care for her son. Police attendance at the family home and the call to CYF social workers provided no substantive help (Stephen absconded immediately after the police left his home), but did serve to mislead Zoe about her rights and the possibility of help. Michelle, Pauline and Tom and Frances were similarly affected. In Michelle's case, the misinformation extended to the professionals requesting that she retrieve her daughter from their care when they could no longer manage her behaviour.

Misleading information was also imparted in regard to the parents' rights to administer corporal punishment. Tania and Paul's experience when their son called the police on this matter was not the only instance of misinformation in this regard. Both parents were startled by the incident, but quite unaware that the information the police gave them was incorrect. Like many parents, they were not familiar with Section 59 of the Crimes Act, which allows the use of "force by way of correction towards the child, if the force used is reasonable in the circumstances" and it was never mentioned by the police. No discussion of what might or might not be considered reasonable took place. Instead, a completely false impression was left with both the parents and the children. Furthermore, the impression lingered, since Tania and Paul expected that the police would be fully conversant with the law and that the information they imparted would be accurate. Their lack of knowledge in this respect had persisted through many years of contact with official agencies. The misconception was strengthened at one point when Tania took Carl and Hannah to the police station because a fight between the two had become physical.

I took them to the police and asked them ‘What rights do we have?’ and he sat down there with the kids and said ‘Why do you have the right to hurt each other, but your parents have no right to hit you?’” So he was really good. (Tania and Paul)

Not only is the law misrepresented, the parents’ unfamiliarity with the territory is such that the misinformation is appreciated. While there is no suggestion that the parents expressed a desire to inflict corporal punishment with impunity, Louise’s challenge to her mother, and Hamish’s challenge to the police in regard to physical confrontation of any description, and the support of these challenges - sometimes explicit, sometimes implicit - by the professionals, again demonstrates the shift in emphasis within the child welfare sector and the ease with which the parents’ position is undermined. The transmission of misinformation shows little consideration of the rights and duties of parents, instead again demonstrating the tendency for official agencies to adopt a child, rather than family, focus. The extent to which this occurs suggests that the parents’ position is not the concern of the professionals at all. Irrespective of the personal convictions of individual officers, with the recent emphasis within policing on family violence, it is highly unlikely that members of the police would be unaware of the relevant section of the Crimes Act. The information provided is simply incorrect, and while acceptance of the misinformation may make the police’s task easier, it does little to enhance confidence that information given by police will be accurate and consistent. Once again the parents’ ignorance as to their rights and responsibilities was not redressed. Misconceptions about the right to use corporal punishment<sup>2</sup> were common among the parents and their children.

The search for potential assistance, then, is heavily reliant on access to reliable information. The failure of the professionals to impart relevant information in regard to sources of assistance served to sustain and exacerbate the parents’ initial frustration. At times this involved the omission of relevant information, while at other times the transmission of misinformation frustrated the parents’ efforts. Contact with various professionals often left the parents feeling as isolated and impotent as their initial condition - and unaware of their continuing ignorance.

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<sup>2</sup> Current Commissioner for Children, Roger McLay, is seeking to have Section 59 of the Crimes Act repealed, though he insists this is not for the purposes of prosecuting parents for an occasional smack on the hand. Rather, it is viewed as a measure designed to prevent the physical abuse of children. The current legislation also has this intent and it is difficult to determine how rescinding the section will improve child abuse statistics. The effect on parents of a change in the legislation is easier to determine - imposing any corporal punishment at all on their children will leave them open to prosecution.

### *Further sources of disempowerment*

Disempowerment and impotence was an implicit feature of all the parents' stories. While their own inability to effect change frequently engendered frustration, the inability of the professionals to do so was equally frustrating, as Cathy's experiences with the police and social worker illustrated in the previous chapter. It is also clear that a number of parents involved in this research were demoralised and disempowered by the misinformation disseminated on those occasions when parents have asked police to remove a child from the family home and been told it was not possible. Others were frustrated when penalties for offending were ignored by the teens and the failure to comply was ignored by the professionals. This tended to undermine the parents' attempts to ensure their children were held accountable - attempts readily engaged by all the parents.

Tania responded immediately on two separate occasions when her children shoplifted, without involving the police. The shopkeeper's co-operation was critical to the success that ensued.

I actually found out from another girl that they'd both shoplifted. So I took them both back down and made them talk to the manager. And he says "Well have you got some money on you?" and they said "No." So he said "Right, I'd like both of you to come and spend a day in here, on different days, working, one day each." To make up for the little chocolate bar which probably would have cost a dollar. So I thought that was nice. (Tania and Paul)

We had a (similar) situation with Hannah and Carl when they were younger and I took them down to find out what had happened. The shopkeeper said that they had come in and he'd managed to catch Carl because he wasn't fast enough. And again they were taking junk food. And I said to him "Well, what can you do to - not so much help me through it, but Carl? Like sweeping floors or something like that?" I'd pay it, but he still needed something to ... for him to learn that that's not the right way to do it. And the shopkeeper says "Well it's not my responsibility, it's yours. You're his parent." And I just felt, you know he wasn't really supportive or anything, that I'd actually brought him back. I just think some of the things that you come across are - some people can be really supportive and others can't. (Tania and Paul)

In both cases Tania responded quickly and constructively, though the results were greatly dependent on the response of individuals who had absolutely no obligation to support her efforts. Her efforts in the first instance were appreciated and supported by the shopkeeper, to good effect. The second incident bears a remarkable resemblance to the actions of the professionals at times, with the shopkeeper's remarks closely resembling those of the professionals. In his remarks was an explicit reminder that their offspring

were their problem, a sentiment conveyed by police and social workers from whom the parents had sought help of their own volition. The parents also experienced a lack of support from the professionals in more subtle ways – usually connected to inaction. When Agnes became aware of a similar problem with Megan, she also acted quickly. Her reaction was additional to the police response.

I frogmarched her around all the shops that I knew the next day, after I talked to the police, that she'd stolen from and made her apologise. (Agnes)

The salutary effect this might have had on Megan was not supported by the police's subsequent inaction when Megan failed to comply with the penalty set by them. The degree of seriousness attached to the original incident is therefore undermined, along with the parents' efforts to treat the matter accordingly. The message implicit on such occasions was paralleled in incidents where some families' concerns about absconding were met with inaction from the professionals. This is not to say that the parents necessarily viewed the professionals as at fault. Cathy's frustration with the police's inability to hold Trixie at the police station until she could uplift her is echoed by other parents on a range of issues.

One night at Chartwell police station Hamish was half drunk and he'd run away from home, and he was walking up and down the road in Chartwell telling everyone to get fucked, only much, much ruder than that, and yelling it out at the top of his voice. We eventually tracked him down. He wouldn't get in the car, so we're driving along just quietly on an avenue, while he's sitting there calling Frances some awful names - and of course he's wearing all black like he did at that stage - he just disappeared. So eventually we got the police. We rolled up to the police station at 10 o'clock at night and we were dead lucky to find a young cop on and he was really neat, helpful. We eventually tracked down Hamish, I talked Hamish into the police station and that's when the frustration started, because he wasn't going to come in and I said "Look just grab him, I'll help you grab him." And he said, "No, I can't touch the kid." I said, "No-one's looking. It's 10 o'clock." Not interested. We eventually - Hamish was very aggressive with him - the guy was really interested, he took time out, he'd finished his shift, but he could see we were distressed. Hamish got really violent and was going out to run away to beat some people up. We asked the cop to stop him and he said he'd love to - he'd really like to stop him, get him in the car, sober him up and bring him home, but he couldn't touch him. And as soon as Hamish started quoting his rights, the cop backed right off, and we have struck that probably with every experience with the police. (Tom and Frances)

We said, "Well, you know, what about - he's pushed me round a fair bit, and had me up against the wall and hit me a few times. The police said, "Well, we can't do anything." My husband said, "What if I hit him? Then you can take him?" And the police said, "Yeah, we can take him because he's at danger, he's at risk." And my husband said, "Yeah, but if I hit him and you take him because he's at danger and he's at risk, then you're going to charge me with assault." And the police said,

“Yes.” And we just found that they were - parents don’t seem to have any rights. They really don’t. The kids have got all the rights under the sun. He can push me round, he can hit me, he can smash my face up. He can do all these things and what rights have I got? Got nothing. (Zoe)

No charges. Only if he did it. They’re basically saying that if he had hit Frances they would have, but because they’d interceded just before he did - I mean he pushed her around, but he never sort of ... he hadn’t done anything wrong. Because they all seemed reasonably careful about the legislation. (Tom and Frances)

Clearly much of the frustration stems from constraints related to the legislation. The parents repeatedly reported police frustration borne of such constraints. Again, however, there is an element of deception involved in some instances. While the legislation requires that recourse to the courts be a last resort for young persons, charges are not precluded and may be dealt with through FGC proceedings or Youth Aid initiatives. Once again, resources are a likely factor in the reluctance of the police to take further action. Processing charges and enacting an appropriate response to them is time-consuming and labour-intensive. At thirteen, Stephen was too young to be prosecuted for anything other than murder or manslaughter, though other actions were possible. A family meeting with a social worker or Youth Aid officer, or a FGC might well have served to cause Stephen to reconsider the acceptability of his behaviour. At fourteen, Hamish could have been charged and processed without recourse to the courts. It is possible that the outcome of this course of action (often regarded in the public arena as a soft option) was considered too insignificant to warrant further expenditure of police resources.

Assaults on or threatening behaviour towards parents did not result in charges for any of the families here. Shoplifting, burglary and assaults on strangers did. All but one (Nita) was processed without recourse to the courts, which indicates that the police are well aware that the legislation does not preclude charges. Again there is evidence of rationing, with an inference that assaults on parents are deemed “not bad enough” to warrant action. The failure to take further action also has long term ramifications for the parents in terms of accessing assistance. Since assistance was routinely denied on the grounds that the young person’s behaviour was not sufficiently serious to warrant intervention, an escalation in *at risk* behaviour became the only likely means of accessing help. A documented history of *at risk* behaviour could assist in eliciting help. Without police action in processing incidents such as assaults on parents, this history would not be available, further prolonging the parents’ isolation.

Many of the parents described instances in which they considered their parenting abilities were cast as inadequate at best. While none claimed to be perfect parents, all were committed to their children. The criticisms from professionals - implied or actual - did little to relieve their isolation or impotence and served to undermine the parents' confidence. All the parents were struggling to chart the optimal course of action in the circumstances, though their efforts were met with responses ranging from open derision to veiled threats and unfounded assumptions. Frustration exudes from every quote.

We were raked over the coals for leaving him at home.<sup>3</sup> He (health professional) sat us down and asked us ... how much supervision Stephen had and why was he at home alone and ... what sort of problems were we having at home that would make Stephen drink. It was a real inquisition. Both my husband and I when we left there, we said, "That felt like the Principal's office, didn't it?" That's what it felt like. (Zoe)

One day I went down to school about it<sup>4</sup> (truancy) and the counsellor said to me "You do realise that you can be prosecuted?" (Pauline)

I had a bit of a stand up argument with him (the school Dean) and basically told him I didn't really think he'd done the correct thing and he said, "well maybe I haven't done correct, but you're not doing a very good job as a parent either, are you?" (Zoe)

Just that they (CYPS) knew better than I did. They knew my daughter better than I did. Children, to save themselves, will say anything they like, and do - to save themselves. That's nature, that's survival - and CYPS believed everything and wanted to believe everything that she said. It was basically blamed on us. They just wanted to believe from the beginning that she was from a dysfunctional family, and that was the whole problem. They wanted to believe that it was a family thing, and if they took over her care, everything would be all right. (Michelle)

I'm not surprised that they (police) were sucked in, but I'm surprised that they didn't try and verify it with me. They took her word. (Michelle)

They (health professionals) dumped all this stuff on me. I kind of felt that they were holding me responsible for everything really and they said that I had ... they thought I had a low-grade depression. And OK fine, if that's what they think I've

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<sup>3</sup> Stephen was an aggressive thirteen-year-old who refused to stay with his relatives during school holidays while his parents worked and also refused to accept a babysitter. Zoe would return home in her lunch hour to check on him. One lunchtime Zoe came home to find Stephen in an alcoholic coma. He had imbibed neat spirits obtained from a neighbour and was admitted to hospital. Despite the family's inquisition, there was no follow-up.

<sup>4</sup> Carla had become increasingly abusive and disruptive at school and eventually refused to attend altogether. Pauline was reluctant to force the issue because the family lived out of town. If she took Carla to school, Carla would not stay and Pauline had no idea of where she was or what she did all day. At home, Pauline felt, there was less damage possible.

got, but there's still the issue of what I felt - the children had some rights (to counselling). (Janet)

I was regarded as not a woman who was putting my daughter's best interests first. That's how I felt regarded. I felt like I was a schoolgirl on the mat with the teacher. I didn't feel like I was with a (school) counsellor. I was not being regarded as an adult. (Yvonne)

He never set eyes on me, but decided I wasn't a fit mother. I think it was mainly based on the fact that by then I identified as a lesbian. (Brenda)

These cases involved direct criticism of the parents by the professionals, though in Brenda's case the criticism came through a third party. While this compromises reliability to some degree, subsequent actions by CYF<sup>5</sup> lend credence to Brenda's claim that she was regarded as an unfit mother. Zoe's criticism of the Dean might be regarded as prompting a retaliatory response. His actions prior to the exchange, however, suggest that his retort reflects an existing negative evaluation of Zoe's parenting abilities.<sup>6</sup> There is no evidence of empathy with the parents' positions and the criticisms can only result in further alienation and polarisation. The effect is also evident in cases where criticisms are implied, rather than direct.

There was a sort of implied "How can people in your position have got to this stage?" I certainly was talking to them (CYPS) about the fact that we'd partly got there because we'd tried to help ourselves and got it wrong. Not our fault, but we'd got it wrong. We should have gone for help earlier and we should have - you know, when I have my second family I'll know much better! ... The impression you get is, "Is it you abusing the kid?" So I wasn't impressed with that. (Tom and Frances)

I just felt like they (school) were saying, "Well, hey! We know what we're doing here and you don't need to think that you know what you're doing." (Janet)

They said that if we went to Parentline - like all these things that were happening were our problems. Our fault, I think. They never used the word "fault" ... they just said "problems" or "responsibilities". It was our responsibility. (Tania and Paul)

We were made to feel like we were terrible parents (by CYPS), but we didn't know why. (Agnes)

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<sup>5</sup> Georgie, was granted an Independent Youth Allowance and moved in with her boyfriend's family. The social worker made no attempt to contact Brenda.

<sup>6</sup> Despite Zoe's requests that contact be maintained with the school while Stephen was in temporary fostercare, the Dean had failed to inform Zoe of ongoing problems at school.



... all the times I begged for help for my daughter and I was looked on like I was a bad mother because I would ask for help, and because I was telling them the truth<sup>7</sup> about my daughter ... (Michelle)

The frustration and alienation of these parents is no less evident, though the criticisms are less direct. Some, like Michelle, have experienced criticism in both ways. There is a sense in which implied criticism is more problematic in that it is more difficult to mount a defence against something which is not clearly defined. Thus the defensiveness associated with open criticism is complicated by an essential defencelessness when criticism is implied. Neither engenders a supportive environment and both suggest an assumption of parental complicity in *at risk* behaviour. The tendency to blame parents for their offspring's behaviour indicates that they are viewed as a likely cause of *at risk* behaviour. The corollary of such an assumption is a loss of validity for the parents, an essential marginalisation that acts to further frustrate their parenting efforts. It is reflected in the parents' failure to achieve a voice in the processes they encountered, in the failure of the professionals to consult with the parents and in the misinterpretation of the parents' words and intentions.

I certainly think that I was disempowered by not being heard. (Brenda)

I really felt that everywhere we went nobody was really interested. (Pauline)

Not once did they ring up and say "Look, what's going on with your child? What's happened to your child? Why is she like this?" No one ever asked me that. And when I asked for help so that, you know, the message could get through that she was a strange, in inverted commas, child, there was nothing. (Michelle)

I waited for him (CYPS worker) outside the courtroom and said "There's no way that she can go and live with her father" and he just walked away. And we walked after him and said, "Excuse me, but there's no way that Nita can possibly go and live with her father" and we tried to explain why, and he just looked at us like we were a bit of dirt. (Michelle)

And nobody had ever asked us...you know, for any input...whatsoever. (Michelle)

I didn't feel they (Child and Family Team) were interested, that they weren't actually listening to what I was saying. (Janet)

They wouldn't listen to me; they wouldn't listen to Tania. (Tania and Paul)

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<sup>7</sup> Michelle, in attempting to inform the professionals of Nita's consummate skills in deceit and manipulation, had been compelled to recount events that cast Nita in a poor light. She had also conveyed concerns regarding the eventual possible extent of Nita's behaviour, including her concern that Nita might kill someone - or herself.

And he (school Dean) just said, basically he didn't have the time. He made phone calls to the foster parents and that was all that - seeing as they were in charge and had custody of Stephen, they were in charge of him - that was all that he had to do. (Zoe)

I can ask what I think might be the right question, but as I said before, it gets interpreted in some other way and different connotations are put on it. Then I'm too scared to say anything and I don't get the information I want. (Mona and Dave)

Some of the parents were keenly aware of their marginalisation, the judgements behind it and the relative weight attached to their perceptions of events and circumstances as opposed to those of children and young persons.

He was trying to defend his brother's access into my home. So it was really this boy thinking that now he was the master of the household, I think. And what interested me was that it seemed to be supported by the police. His story was certainly more valid than mine. (Yvonne)

... so that not just Nita was being listened to and we were being judged on Nita's say so without any - I mean they never even asked me. (Michelle)

(They conveyed) amazement that we seemed to be reasonably articulate people and how have we got ourselves into this mess? (Tom and Frances)

The police from Chartwell phoned us up and actually the woman police officer was quite abusive towards me on the phone. She wouldn't listen to a word I said, once again. This has become quite a habit. And the guy who interviewed us, came to visit us. He - well you can only, I mean it was a judgmental thing - he didn't actually say anything, but we felt that he didn't believe us either. (Michelle)

One parent, Yvonne, was also aware that she was significantly better positioned than most parents who were involved with the professionals, especially CYF. Though more successful in influencing the professionals than the other parents, the experience left her in no doubt that what she encountered would have been daunting for most parents. The relative powerlessness of the parents' position was evident to her, despite her own successful negotiation of the territory.

I'm so fortunate - because of who I am, and because I'm articulate and because I've got contacts and because I can present well. It made me really, really aware ... if I felt that much on the back foot ... it was a really good lesson for me to think about how other people, how all those authoritative positions would feel for other people. Very good experience for me in that way. (Yvonne)

At a personal level, Yvonne found many lessons in her experiences, as did the other parents. The lessons were not always positive or constructive for the parents at either a

personal level or in practical terms, resulting in a sometimes cynical view of the agencies from whom they sought help. Parental expectations of information, advice and referral by the professionals to appropriate helping agencies were not met. The over-riding impression of the interviews suggests extreme frustration and the parents' assessments of the professionals with whom they had contact reflect this frustration.

### ***Parents' assessments of assistance***

The experiences outlined in the preceding pages indicate a range of problems and responses to the problems. There were some successes – Marnie's sons ceased their criminal activities, Yvonne's daughter accepted the boundaries that Yvonne negotiated with her and Hannah and Maurice settled into their schools. Without exception the families reported their greatest source of support in their parenting came from their spouses, families or friends, rather than the professionals. Most commonly this was in the form of emotional support, rather than practical. Some families received assistance from community organisations such as Parentline, NSAD and Toughlove. Indeed those parents associated with Toughlove found it to be the only organisation able (or willing) to inform them of the rights and duties of the various parties, as well as providing the support that comes from interaction with others experiencing similar problems. Zoe's greatest support during these times was her husband, but her greatest source of information and next source of support was Toughlove.

One thing I've learnt at Toughlove is you actually have got rights, parents have got rights. If they bring your child home or if the police are in attendance at a domestic incident, you have the right to ask them to take them out for a while and the police are really obliged to do so. We do have rights ... I think things like - nobody really told me about things like Toughlove, Parentline, anything like that. I found it (Toughlove) really educational and you see parents going through the same thing as what you're going through. (Zoe)

Community organisations, however, were only a partial response to the parents' problems and access to them was dependent on awareness of their existence and purpose. There was universal awareness of the existence of CYF, though a lesser awareness of its operation and processes. With the exception of Janet, all the families had some contact with CYF. The generally negative appraisals of CYF were not dependent upon whether the parents, the children or other child welfare professionals initiated contact. The parents uniformly reported a distinct lack of support in their parenting, irrespective of whether they sought assistance from CYF, or found themselves

involved with the agency through referral by others. Parents who sought help reported continuing isolation and impotence when asked if they found the agency supportive.

No, definitely not. They weren't interested in us at all. It was just all focussed on Megan. (Agnes)

No. (Emphatically) ... basically they didn't want to know. They didn't want it to be their problem. (Pauline)

CYPS were useless. They were psychologically unhelpful and in terms of any support for adults. Like I say we went through CYPS to try and get help. I would never go back there. I would never, ever go back there. (Tom and Frances)

There was no, sort of, support unit. Well what have CYPS done so far? They really haven't shown me anything yet ... No, they haven't really helped me. I just think that the parents are left to struggle on their own. They really are. There needs to be somebody out there to look after the parents. (Zoe)

Children and Young Persons didn't want to know. (Andrew)

(You expect) that when you ring them up they ... they're there for you, but they put you onto another one, and another one and you know, I'm getting nowhere. I rang up Social Welfare. They said they couldn't do anything for me. Why hasn't Social Welfare stepped in? (Marnie)

It is to be expected that these parents continued to feel isolated and impotent following their contact with CYF, since they were uniformly unsuccessful in eliciting assistance from the agency. In as much as advice was generally not forthcoming, their ignorance also persisted. The responses of parents whose involvement came about through other means were no more positive.

I felt shut out of being a caregiver for Grace. (Yvonne)

Absolutely useless. (Mona and Dave)

I think a lot more could have been offered by the place. (Brenda)

Well, to be perfectly honest with you, they were totally non-communicative with me at first, until I rang up and threw a tantrum, basically. I gave the social worker hell. (Cathy)

CYPS just didn't care. And I sit back today and watch one of my kids getting worse and worse and worse and people are just - (Paul is very emotional at this point) front up to work to collect a week's pay. They're not there to help kids; they're there to line their pockets. They just didn't want to know. Unless it was between 9 to 5, they just don't want to know. And if I could talk somebody else out of the idea of going to CYPS I would do so. (Tania and Paul)

They weren't interested. I think they should always have two actions that they take. They listen to the child. Definitely. They have to, but they also have to investigate further whether that is true or whether it's not. But they all, just as one, seem to... I went through so many people at CYPS, and they were all the same, so I'd say it probably was their training that was lacking. If they had've just taken the time to get to know me and my family ... and perhaps she would have got the right sort of treatment early on, and that would've saved a lot of - for a start, elderly people, never mind what's happened to our family... (Michelle)

It is important to note, however, that the condemnations were not universal, with some parents, including those who also criticised CYF, acknowledging the positive contributions of the agency (particularly the influence of individual social workers), and displaying an appreciation of the difficulties under which it operates.

To some extent - there were some really good ones in there that the kids had as social workers and they were really good and they looked after the kid's side of things as well as your own. But then when it changed hands and the kids were placed somewhere else, they had this Malcolm working for them ... and I didn't think he was very supportive at all. (Tania and Paul)

There are some good ones out there though, cause we used to deal with Leah and she was really neat. She actually listened to what we had to say, she had a conference here at our home and that was really nice of her to come out on her time ... It was the only time we ever got ahead with social Welfare was with Leah and I'll never forget her as long as I live. She did a lot of good for the kids and tried to steer things in the right direction, but because of workloads and being moved up, I feel very sad for the kids that were coming along after my children that were going to miss out on that person who took her individual time into her caseload. (Tania and Paul)

Other parents acknowledged the possibility of their own impact on their interactions with the agency.

No, I didn't feel included, really. But that might have been down to me as much as anything. It was so alien to me. They really need a parent advocate. (Michelle)

The chap who we actually had was really good, but he had his hands tied a lot. He went as far as he could go, and even further, you know, for her, until he got his hand smacked. He got hauled over the coals. To a degree I saw her social worker as a source of advice, but I got extremely frustrated because he couldn't do anything. No, not really. Some areas I did (feel supported), but, I mean I have to be a little bit careful because I'm very bitter ... (Cathy)

Assessments of the role of the police reflect a greater appreciation of the problems - most commonly constraints related to resources or the legislation - facing the police than was evident in assessments of CYF, though frustration continues to permeate both the parents' accounts and the actions of the police. Perceptions were less negative and, again, there is an appreciation of the differences attributable to individual officers.

Not really. They couldn't help us. I was really disappointed. I thought they were there to help. I found that they were pretty useless. (Zoe)

The police station shuts at 5 o'clock; there is no contact. If you ring you get Auckland, Hamilton or Christchurch or someone. Eventually we rang one of the local cops whom we knew. We got no help, so we rang the watch house. I think he knew, but didn't want to say ... I had had absolutely no help from the cops (on another occasion). They were just not interested. (Mona and Dave)

I went into the police station quite a few times and talked to them, but they don't really have any answers. (Pauline)

The police were really funny. In the beginning the police were great. I've really got to say the police were being supportive. In terms of the immediate day to day problems, the police were supportive at times of crisis without a doubt. They actually sat down and they talked to Hamish, they tried very hard a number of times in my hearing, plus other times when I wasn't there. Some of them just see a whole lot of these kids and one's the same as the other, but the majority of the younger cops - which are the ones you see the most of - appear to be genuinely concerned and genuinely frustrated ... by the Children and Young Person's Act. Absolutely! Every one of them has expressed frustration to us. (Tom and Frances)

My over-riding impression was that they would have liked to have helped more, but they didn't - they either couldn't or ... it was almost as if they sort of sighed and thought "Oh, not another one," and that nothing they did was successful. That's the impression that I got. (Michelle)

They just said, "Yeah, Carla should be back at home." She was our responsibility ... I just felt that it wasn't an important enough problem for them to really be bothered with. (Pauline)

They were helpful, but they weren't helpful, if you know what I mean. The police have said to me that they wish that they could do more for these kids, but they just can't. I mean it's like for instance - they can be set up, so they tend to leave them alone. (Cathy)

The police officers were really good - two women - and they gave her a real dressing down and of course that was processed through the Youth Aid. They're very slow to respond. In fact I had to ring up after about a week or so and say "What is happening?" and they hadn't even received the report, so obviously the police processes were a bit too slow - for a parent's anxiety anyway. ... the police said, "Well, you'll have to deal with it. We've got bigger work to do, bigger fish to fry," (Andrew)

I felt like they did all they were able to do, but their hands were tied by law and they couldn't do ... they would have liked to have done more. Perhaps been a little bit harder on Megan, but they couldn't. (Agnes)

I found very different policemen along the way. The policeman I spoke to (in the first incident) didn't want to know me. So the police came (on a second

occasion). That policeman was actually really lovely. So it is about the attitudes of the people who come at the time. (Yvonne)

Although the parents have sometimes erroneously accepted that the police are legally precluded from some actions, it is clear that there is considerably less antagonism between parents and the police than between parents and CYF. Such action as is taken by the police is more likely to be experienced as supportive of parents and the limits to the assistance given are viewed more kindly. That is, there is a willingness among the parents to excuse police inaction that is considerably less apparent in their assessments of CYF. There are a number of possible explanations for this. The first relates to expectations – parents may have expected less of the police than of CYF and therefore have been less disappointed at inaction. Secondly, the police may have communicated more succinctly with the parents, perhaps being more adept in exercising public relations. Third, none of the parents reported an outright refusal of assistance by the police in the first instance. Though the assistance may have been limited, the police were inclined to take some sort of action in response to the parents' approaches, unlike CYF. Finally, while some parents noted the differences between individual social workers and police officers, the experiences with the police are much less reflective of a judgmental attitude on the part of the police. The parents are therefore less defensive and less likely to be antagonistic towards the police, though frustration continues to be evident.

Individual differences also feature in perceptions of the support offered by schools and associated services. The differences relate not simply to individual staff or ancillary services, however, but also to individual schools. That is, some parents had experiences with more than one school and some schools were associated with a wider range of ancillary services than others - truancy services, for example. Furthermore, while the school itself might be regarded generally as supportive, some individuals within the school were not, or *vice versa*.

Very (supportive). I think Truancy - all they can do is go out there and take the children back to school. But from the school's side of it, I went with Hannah one day and I sat for about an hour or so, waiting for her to get her report signed and I didn't see anyone. ... I don't really like using the counsellors from there because they haven't got good reputations. (Tania and Paul)

At one school, fantastic. They're absolutely wonderful. The other school, yes, by the - there's 2 counsellors, not by the woman counsellor, but by the other man. See Hayden had had some counselling with him, and he was great and we had some talks with the third form dean. They were wonderful and it was - they were very supportive of me. (Janet)

So no help what so ever with the school. (Agnes)

There was a school guidance counsellor and I must say that she would have been the most - the person who did the most long-term damage. I felt that the main obstruction to getting Grace settled was the continuous feeding from the school counsellor of her treating me as if I was the enemy. (Yvonne)

I had problems with the high school. I rang the school and spoke to the Dean and the counsellor ... I rang the school and made an appointment to go over and see the Dean. And he just said, basically he didn't have the time. About a week later I rang one of Stephen's other teachers. She was his English teacher and she was lovely. (Zoe)

No, I don't (think they were supportive). I went to see the school counsellor, who was a pleasant woman, but rather inept I found. Later on when I was saying to Georgie about accessing help for herself and said to her "What about a school counsellor?" and she said that she couldn't help. When I asked why she said, "Because she's too busy being nice." (Brenda)

Not very positive - from the school - they weren't really interested in doing anything. ... Actually, Carla's counsellor that she was seeing at school (was very supportive). (Pauline)

No, absolutely not. That school ... some of the individual teachers have been great. In fact we've been really impressed with some of the guidance people; been totally unimpressed with the Principal, but I can understand where he's coming from because they've got 1400 kids counting as one, with half a dozen of them receiving favours. So the answer is, one or two of them individually have been great; one or two of the teachers actually seem to have taken the time to listen to him, or sympathise with him - they've been really helpful. But the school has been uncommunicative. (Tom and Frances)

I have special trouble with the Principal because he doesn't like women. It has made it difficult to communicate with him. We've tried to keep in touch with the school from the very first inklings that we had a problem with Hamish. But they kept letting things get to extremes before they contacted us. (Tom and Frances)

We had a meeting up at the school. I had teachers, I had Open Home Foundation, I had my brother-in-law ... we all sat in the staff room, everything was brought out into the open ... and it came to nothing. I walked out very disappointed because it didn't come to anything. They were beating around the bush as though they were too scared to say anything, or too scared to have a go at the kids. They weren't there to pick on them, or what their version was. But they wouldn't open up, so I walked out of there as though I didn't achieve anything. I was more disappointed than anything. (Marnie)

In actual fact, I was really disappointed in the school. (Cathy)

The parents' assessments of the schools were more forgiving than those related to CYF. This may again indicate higher expectations of CYF, though their stories suggest that the



schools facilitated access to further assistance more readily than did CYF. There is a certain irony in this, given the primary responsibility of the respective organisations. Common sense suggests that the most appropriate avenue for assistance is that which has primary responsibility for child welfare, rather than education.

Health professionals and services did not feature in the parents' experiences to as great an extent as schools, police and CYF. With the exception of Tom and Frances, the parents tended not to seek the assistance of health professionals in the first instance, and found themselves involved with them through referrals from school or as a result of their children's actions. Again there are concerns expressed which reflect problems with resources, process, information flows and lack of support, and again the experiences reflect continuing ignorance, isolation and impotence.

I just felt uncomfortable in the whole atmosphere. I wanted to have a discussion and he (hospital psychiatrist) had to go somewhere else. I've rung him twice and I can't get hold of him. I didn't feel good. Mainly the process wasn't very good and the environment wasn't very good and I know they're probably stretched for resources and all that kind of stuff. (Andrew)

It's an issue I have with the unit (Child and Family Unit). I understand that they've got to assess her and then make some decisions about family counselling, but the lack of information does worry me as a parent. There's a great big hole, and you wait and wait, then there's nothing. I don't think it's a very reassuring process that I went through. (Andrew)

... but there was no more assistance from them (Child and Family Team). We did go to some counselling, but what upset me was there was four of us and we had one hour, and I didn't see that that was okay, because if it was just me, and one child, we would have one hour. And so the whole organisation - it wasn't appropriate to help us sufficiently. So then last year, it finished up...and there were problems, but it was like "Oh well, you know, there's nothing more we can do really." No, it was more they weren't really interested. (Janet)

We've got a GP that's Prozac mad! We got initial support from the doctor but that was like getting support from someone who was an amateur in the field and really did probably more harm than good. (Tom and Frances)

The NSAD was the most helpful of the lot, Toughlove included. He got close to one of the counsellors there; he kept wanting to go back. ... and they gave me all the assistance they could, because now they can use that information<sup>8</sup> to help all the other kids ... (Tom and Frances)

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<sup>8</sup> Frances was searching for residential assistance for Hamish, and in the process gleaned a wealth of information about the services offered by various community and state organisations.

Ignorance is evident in the problems with information flows between professionals and parents, and also in the knowledge base within organisations such as NSAD. While the latter was alleviated through the actions of the parents (in this case), the problems with information flow between parents and professionals tended to remain unresolved. Problems in defining the best appropriate first point of contact are also evident in Tom and Frances's remarks, and to some extent this also demonstrates knowledge gaps on the part of the professionals in regard to *at risk* behaviour. Again the stories reflect the isolating effects of inadequate resources in cases where access to professionals is constrained by caseloads, where the material environment is alienating or where continuing assistance is not available. The parents are clearly frustrated by their inability to access assistance and information, and to influence the professionals involved in this regard. The outcome for these families is far removed from the supportive environment intended by the legislation.

It is clear that ignorance, isolation and impotence operate singly and together in multiple ways to frustrate the parents in their efforts. Some of this – initial ignorance, for example - can be understood in the light of general expectations of the parenting career. Continuing ignorance is less easily explained. The parents' experiences seldom reflect an easing of their burdens through involvement with the professionals, though the inaction of the professionals can, in some instances, be explained. At other times both the action and inaction of the professionals cannot be readily explained, but, from these instances, the generation of an explanatory theory is enabled.

### ***Grounding a theory***

This research was undertaken in order to examine the existence and nature of problems in the parent/child/state nexus, argued to be more readily observable at the margins of society where families in crisis test the character of existing social relationships. Problems in these social relationships are evident in the actions, interactions, attitudes and experiences of the subjects. The families contributing to this project presented a variety of circumstances, behaviours and interactions. Within their various stories lay evidence of a fundamental frustration, common to all. While specific indicators of frustration varied with the circumstances and behaviours involved, the sources of frustration can be attributed to the three, more abstract, second order concepts - ignorance, isolation and impotence – through which the analysis proceeded. As noted, initial ignorance and isolation are not untoward, given the usual expectations of the

parenting career. From these, a degree of impotence is also to be expected.<sup>9</sup> For the families in this research, involvement with the professionals did not ensure resolution of their initial ignorance, isolation and impotence and frequently served to perpetuate or exacerbate their frustration. The continuing existence of these three conditions provides the basis for the formulation of a theory by which the data are explained.

In seeking to address *at risk* behaviour by their offspring, the parents were repeatedly frustrated in their attempts to access information and assistance. Where assistance was accessed, problems with information flow persisted and interaction with the professionals often added to the problems faced by the parents, rather than offering relief and support. An air of suspicion tended to permeate CYF responses to any incidence of *at risk* behaviour by children or young persons, though this did not necessarily translate into intervention by the state. For the families in this research, intervention by the state was associated with initial approaches to CYF from individuals other than parents. None of the parents in this research was successful in eliciting assistance from CYF of their own accord. Children and young persons were significantly more successful in mobilising the professionals than were their parents. Similarly, referral to CYF by other professionals met with more success, though parents encountered difficulty in convincing other professionals to take such steps.

Where families became involved with the professionals more extensively, the parents consistently struggled to be heard. The impotence of some families in eliciting any assistance at all from CYF was echoed in the impotence of other families in their attempts to influence the decisions of the professionals. Allegations of abuse engendered a defensive reaction from parents, which lead to a distinct polarisation between the professionals and the parents. Furthermore, the polarisation arose even in the absence of the catalyst of explicit allegations of abuse. Throughout the parents' involvement with the professionals there was a strong sense of powerlessness, an impotence derived from their own marginalisation. Their initial frustration, borne of ignorance and isolation, was exacerbated by the lack of validation from the professionals. Much of their marginalisation was associated with the blame (both explicit and implicit) the parents felt was attached to them by the professionals. Ignorance and isolation persisted and impotence was compounded.

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<sup>9</sup> This is most easily understood from those cases where parents were unaware of offending by their offspring and were therefore isolated from the problem and its solution.

Their stories do not provide evidence of the supportive environment that families might expect, given the principles and philosophy of the Children, Young Persons and Their Families Act 1989. The parents, however, viewed the legislation as implicated in their problems, since the professionals regularly referred to legal constraints in explaining their inaction. As a result, the parents were drawn into a perception of their problems as stemming from the competing rights of parents and children. This view was supported by the actions of the professionals, with the child then becoming contested territory, which the parents and the professionals competed to control. In championing the interests of children, the professionals' actions displayed an essential neglect of parents, their role, their rights, their status and their struggle. Where parents were considered at all by the professionals, it was in regard to their responsibilities. The professionals most commonly expressed the family philosophy of the legislation only in this respect, with the parents adopting a similar position as a result. The parents became convinced that they had few rights, but much responsibility, while for their offspring the reverse was the case. The resulting marginalisation of the parents is most evident in the inaction of the professionals - in the failure to provide assistance, in the failure to impart relevant, accurate and consistent information and in the failure to consult with, and listen to, parents.

These failures suggest a low value is attached to the parents by the professionals. That is, the treatment accorded to the parents is indicative of a poor perception by the professionals of the role, status and abilities of the parents. With few exceptions, the contributions and opinions of the parents were disregarded. The disregard of parents evident in the actions of the professionals differs significantly from that which would pertain if a high valuation were accorded to parents. The respect, authority, esteem and beneficence - the *mana* - attached to parents of generations past is no longer evident in the actions of the professionals. Herein lies the means by which the experiences of the parents might be explained.

The parents' stories speak of disempowerment in regard to their children - disempowerment as parents, rather than as people. Their treatment within the child welfare sector confirms this disempowerment, though the source of the disempowerment is obscured by the children's rights discourse and the frequent references to resource constraints. Neither of these obfuscating factors satisfactorily explains the experiences of the parents. Children's rights, for example, are not implicated in the failure to ensure compliance with the penalties for offending, or in

failing to render assistance on the grounds that the young person's behaviour is not sufficiently serious. Similarly, resource constraints cannot explain the failure to consider the parents' opinions or the failure to impart accurate, consistent information.

Considering the parents' experiences from a perspective imbued with an understanding of a low valuation of parents allows a viable explanation of their continuing frustration and its sources. Revisiting specific instances in their stories from this perspective assists in making sense of the data. The failure to provide relevant information, for example, demonstrates a lack of consideration for the needs of the parents and a willingness to allow them to continue to struggle in ignorance and isolation. It signifies a greater validity is attached to the professionals' assessments of situations, while at the same time suggesting that greater priority is attributed to the voices of children and young persons. While children's rights and resource constraints are factors that properly require consideration, the exclusion - or minimisation - of the parents' perspective from the considerations of the professionals further signifies the relative unimportance to the professionals of parents within the child welfare sector.

The primary examples of the low valuation of parents are those instances where parents have been unable to influence the decisions of the professionals already involved with their offspring. These parents repeatedly reported a lack of voice in the processes they encountered. Their opinions and concerns were routinely disregarded in a manner consistent with an official view that assumes superior knowledge and skills pertain to the professionals. While this may be an accurate reflection of the situation in terms of the systems and processes involved, the assumption extended to include parenting capacity. That is, the parents' opinions and concerns as parents, rather than as merely actors in the child welfare arena, were treated as being of little significance and validity. Marginalised and invalidated, the parents were inevitably disempowered.

The parents' stories are testament to this disempowerment. While retaining responsibility for their offspring, they are constantly thwarted in their attempts to fulfil that responsibility by virtue of their invalidation and marginalisation. Their experiences indicate that parental *mana* has been eroded to a point at which the performance of their parental duties is inhibited. The frustration that permeates their parenting efforts is both explained and exacerbated by eroded parental *mana*. Furthermore, the very factors that impede their efforts also serve to perpetuate their impotence, lending credence to existing poor valuations of parental abilities. This suggests that, unless addressed, the spiral will continue. While involvement with CYF produced the most striking examples

of disempowerment, the data indicate that it is also a feature of other domains – education, health and justice, for example. This suggests that the low value accorded to parents by CYF professionals is part of a wider tendency. That is, the problem is not merely one related to the culture of the child welfare sector, but extends further into the community.

The interview data, then, testify to the ignorance, isolation and impotence which permeates much of the welfare sector that is concerned with *at risk* behaviour by children and young persons, engendering considerable frustration, primarily for the parents. The failure of the parents' involvement with the professionals to relieve this frustration is indicative of a low valuation of parents. Other factors implicated in the problems encountered by the parents provide inadequate explanations for the treatment of the parents. Together, these considerations give rise to the theory that parental *mana* has been eroded to an extent such that the relative power of parents is no longer commensurate with the responsibilities of effective parenting of *at risk* children and young persons. Validation of the theory and its conceptual foundations is achieved by extending the research to the broader historical context. This is consolidated in chapter ten through a synthesis of the interview data results with the historical and legislative analyses presented in the early chapters. This synthesis is enhanced through a deeper understanding of the current social context - particularly in relation to the unintended consequences of initiatives introduced to enhance the welfare of children and young persons - within which professionals, parents and their children operate. This context is discussed in the following chapter.

## CHAPTER NINE

### **Rights, conflicts and eroded *mana* - intentions and reactions**

While many of the historical changes presented in chapters three and four constitute deliberate actions intended to affect children and parents in various ways, other changes in the child welfare sector affected parents less overtly, often unintentionally. This chapter examines developments and initiatives instituted for the purposes of enhancing the interests and rights of children and young persons. It is argued that they often also engendered unintended negative consequences for parents. These changes are set within the context of New Right ideology and the debate surrounding the demise of the family. The history and rhetoric of this debate is investigated here for its potential in assisting the implementation of New Right ideology in the child welfare sector. The ideology is pertinent in that it devolves responsibility, though not necessarily power, back to families<sup>1</sup> and the accompanying rhetoric on the demise of the family contributes to a further erosion of public perceptions of parents. The decline in family values associated with the perceived demise of the family necessarily implies a decline in parental adequacy since parents, not children, are responsible for the maintenance of proper standards.

The consequences of changes in the child welfare sector were not confined to this arena and their effects are visible at multiple levels. Prior to exploring specific initiatives the chapter undertakes a general discussion on rights, relating this to the parent-child relationship. The governance of the parent/child/state nexus has become increasingly marked by a purposeful consideration of children's rights and generated a widespread perception of an intrinsic conflict between parents' rights and children's rights. It is argued that the greatest source of conflict affecting the parent-child relationship results from (previously ungoverned) attempts to balance the liberty rights and claim rights of children and young persons. This age-old conflict concerned with ensuring the continuing protection of children and young persons, while at the same time allowing increasing autonomy, is not dependent on the existence or otherwise of statutory rights for children. The conflict has been complicated in the course of the twentieth century, however, by the increasing encroachment of the state into previously private territory. Implicit aspects of the children's rights movement (notions of equality, for instance) are shown to be implicated in the erosion of parental *mana*. It is also argued that, although a degree of

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<sup>1</sup> See Warman and Millar, 1996.

conflict exists between parents' rights and children's rights, greater problems ensue from the perception that a conflict exists (and the perceived degree to which it exists) than from the conflict itself.

The chapter also examines the practical expression of children's rights in the establishment of the Office of the Commissioner for Children, noting the impact of the Office on public perceptions of conflict between parents' rights and children's rights, a perception fostered by the increasing legalism imposed on the parent-child relationship. Examination of the territory suggests that increasing legalism is ill-suited to the family domain. Furthermore, while a degree of conflict exists between parents' rights and children's rights, the actual empowerment of either group is doubtful, given that final authority rests with the state via the professionals. The implications of child abuse initiatives in New Zealand in the latter part of the twentieth century are also discussed, with a view to demonstrating that eroded parental *mana* is of greater consequence than any conflict of rights. This analysis is not equivalent to a criticism of either child abuse initiatives or the Office of the Commissioner for Children, nor does it deny the need for, or value of, either of these developments. Its purpose is to reveal the significant, but generally seldom considered, ways in which parental *mana* is eroded as an unintended consequence of attempts to ensure the rights and interests of children and young persons. It is contended that the historical decline in perceptions of parents has facilitated the development of a social context in which continuing erosion of parental *mana* is inevitable.

### ***Concepts of family and the New Right***

Though an intrinsically individualist philosophy, New Right ideology also espouses a contradictory tenet emphasising family and community responsibility. The Children, Young Persons and Their Families Act 1989, allows a broad definition of family group which is indicative of a progressive approach to concepts of family. This approach is not always supported in the public arena and sits uncomfortably with the social conservatism often associated with the New Right, though it serves its fiscal objectives well. Notions of what constitutes family vary over time and communities and precise definitions of family, whether focusing on form, structure or function, prove to be perennially elusive,<sup>2</sup> though the nuclear family is the dominant understanding of family in modern western society. Political rhetoric

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<sup>2</sup> See St John, 1991; Jackson, 1994, Davidson, 1990; Rapoport, 1989 ,



propounding the promotion and strengthening of family values is associated in the public mind with the nuclear family, with the inevitable corollary that deviations from this ideal type serve to undermine family values. In the adoption of a family values platform, politicians appeal to notions of a universal moral code nostalgically associated with a bygone era. The absolutist rhetoric is apt to strike a popular chord in western societies with its strong, simple message and the accompanying confidence in its mission. The rhetoric, however, is based on inadequate analysis of demographic and social data.

As noted in chapter one, by the 1970s the assumptions behind the traditional Parsonian model of the family were being questioned (Skolnick and Skolnick, 1974, pp.7-8), with the nuclear family coming to be regarded in some quarters as mythical (Rapoport, 1989, pp.53-69; Davidson, 1990, p.10; Pool, 1986, p.74). Significant demographic changes<sup>3</sup> in most western countries in the last forty to fifty years have been interpreted by some as indicative of the demise of the nuclear family, while others have pointed to the influence of demographic transitions in order to explain the lower statistical predominance of the nuclear family in the 1990s, emphasising diversity rather than demise. Bittman and Pixley (1997) note the tendency for demographic transitions to skew the statistics, but find evidence of a continuing commitment to the nuclear family. For Pool *et al* the normalcy of the nuclear family is less assured and its promulgation as the norm is associated with “major questions ... being asked about the viability of the family, and its possible contribution to an alleged widespread social malaise” (Pool, Jackson and Dickson, 1998, p.88). Questions associating the changes in family form with a plethora of prevailing social problems assume the normalcy of the nuclear family and confer a stigma of deviancy on alternative family forms. While noting similar demographic transitions to those outlined by Bittman and Pixley, Pool *et al* do not interpret these as evidence of a continuing commitment to the nuclear family or as merely a transient aberration, but instead note the dangers of such an assumption, particularly in the policy arena, and view the diversity as an intrinsic feature of contemporary family life.<sup>4</sup>

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<sup>3</sup> See Pool, Jackson and Dickson, in Adair and Dixon, 1998, for a succinct treatment of demographic change in New Zealand.

<sup>4</sup> The implications of narrow definitions of family were noted some two decades earlier, with Swain advocating that the dichotomy involving normal and alternative family forms be abandoned and that the changes be viewed as evolution rather than revolution (in Koopman-Boyden, 1978, p.88).

Despite analyses suggesting that the normalcy of the nuclear family “is not only a myth, but a short-sighted and simplistic one” (Davidson, 1990, p.10), the assumption of the normalcy of the nuclear model continued to dominate political rhetoric, both locally and at a global level<sup>5</sup>. The preoccupation with the new problem of single parent families, for instance, ignores the existence of similar families in previous eras as a result of depressions, epidemics and wars, and assumes a longevity and predominance of the nuclear model that does not stand up to scrutiny. Despite changes in the composition of the family the nuclear model was, for the greater part of the twentieth century, the model of family upon which social policy was based and delivered.<sup>6</sup>

In the United States right wing Republicans and fundamentalist Christians led the profamily movement through the Reagan years in the 1980s. Similar campaigns gathered momentum in Canada and England and by the 1990s had been adopted across the political spectrum with President Clinton, guided by a small group of social scientists, embracing “the ideology of an explicitly centrist campaign for family values” (Stacey, 1996, p.48). Grounded in secular social science, rather than religious dogma or conservative nostalgia for the family of the 1950s, the development of the policies of the 1990s - and their accompanying rhetoric - was assisted by academics such as David Popenoe (Associate Dean of Social and Behavioural Sciences at Rutgers University), Jean Bethke Elshtain (Professor of Theology, University of Chicago), James Q Wilson (Management and Public Policy Professor, UCLA), lending an air of academic credence to the political rhetoric. Although the thrust of much of their work was in expounding the “superiority of families composed of married, heterosexual couples and their biological children” (Stacey, 1996, p.58), the values associated with the idealised concept of family that was promoted were adopted by conservatives and liberals alike. The much vaunted social superiority of the nuclear family became synonymous with an implicit moral superiority as research and statistics were manipulated to fit the agenda.<sup>7</sup> While the social dimension was instrumental in explaining problems such as child poverty and falling educational standards, the moral dimension was associated with increased delinquency, substance abuse, teen pregnancy, AIDS and crime.

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<sup>5</sup> See Stacey, 1996, for an outline of the academic, political and media debates on family values in America, along with a powerful argument for the acceptance of family diversity.

<sup>6</sup> See Davidson, 1990, pp.18-23; Pool *et al*, 1998, pp.117-123; Swain, 1979, p.112.

<sup>7</sup> For example, proponents of the family values campaign fail to allow for mediating variables (such as poverty) when comparing outcomes for the children of two-parent and one-parent families (Stacey, 1996, p.60).

Such arguments and movements were not exclusive to American politics and public fora and the ethos was equally evident in New Zealand politics, suiting and assisting the move to the New Right. Although the ethos was variously adapted here and overseas to allow for a variety of family forms and a greater appreciation of gender issues, the attached values persisted and continued to be associated in the public mind with the traditional nuclear family. Juvenile crime, in particular, was the catalyst for much of the criticism of parents, with evidence of a growing consensus across the political spectrum in regard to how this might be addressed.<sup>8</sup> The consensus rested on an unchallenged assumption that the root of the problem was the family, and in Britain both major parties announced similar strategies in the 1997 election campaign.<sup>9</sup> The British campaign was, and continues to be, echoed in New Zealand politics and media where the assumption that social problems are directly related to deficient family functioning allow frequent and stinging criticisms of family performance.

Criticisms of family performance in terms of meeting their responsibilities are necessarily criticisms of parents, since the second usual component of family - children<sup>10</sup> - does not have responsibility in this sense. Parents, not children, are seen as responsible for family form, structure and functioning. While alternative family forms and structures no longer attract the same degree of negative attention as was previously the case, the family's competence in fulfilling its functions - reproductive, sexual, socialisation and maintenance<sup>11</sup> - continues to be the subject of increasing scrutiny and criticism, though underlying this there remains an abiding suspicion connected with changes in form and structure. Although not the subject of official publicity campaigns such as those relating to abuse and neglect, this aspect of perceived parental failure is publicised daily in media reports and political rhetoric which largely remains

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<sup>8</sup> Britain's Labour leader, Tony Blair, emphasised family values in his vision of a decent society, but was at pains to include alternative family forms in his vision. Calling on parents to take responsibility for their children's behaviour, Blair said he was "sick and tired" of parents blaming schools, teachers and society for truancy. In a remarkable demonstration of the pervasiveness of the family values campaign, his remarks were the substance of a speech in Cape Town to the Commonwealth Press Union - the result of an invitation to speak on Labour's foreign policy! (*Electronic Telegraph*, 15 October 1996, Issue 510)

<sup>9</sup> Though concentrating on early intervention as the most promising means of reducing juvenile crime, both parties proposed sanctions on the parents of troublesome minors as a means of achieving this. The sanctions included parental control orders of up to three years in duration, fines and curfews on both youth and parents (*Electronic Telegraph*, 5 March 1997, Issue 649).

<sup>10</sup> While the broad definition of family is inclusive of childless couples and those individuals responsible for the care of elderly or infirm relatives, criticism (if any) of these groups is of little relevance here, since the notion of family responsibility tends to be related most frequently to responsibility for next generation dependents.

<sup>11</sup> See Bilton *et al* (1981).

unchallenged, but continues and expands the historical erosion of parental *mana*. Those families who require the intervention of child welfare professionals are readily constructed as failing to maintain proper standards in some degree. Practices developed in the operationalisation of the legislation will therefore reflect at a minimum, doubt, and at worst, negative conviction, regarding the competencies of the parents involved. The rhetoric of this debate and its implications for parents need to be borne in mind during the exploration of initiatives within the child welfare sector.

### ***The focus on rights***

Increasing attention to children's rights is evident at both the national and global level. The history of expansion of human rights, particularly over the longer term, is demonstrative of a seldom-acknowledged fluidity of rights, which is contingent upon historical, geographical, economic, cultural and social factors.<sup>12</sup> The particular rights accorded a high status in a given society are related to that society's sense of social and individual justice. Thus, while the French Revolution placed a high value on liberty, fraternity and equality, the American constitution values life, liberty and the pursuit of happiness.<sup>13</sup> It is clear, however, that some notion of equality has been evident in much of western history - albeit initially constrained within narrow boundaries. The inexorable - if not steady - expansion of the group of people deemed deserving of equality has permeated societies previously characterised as hierarchical in the extreme. Originally intended as applicable to white males, the notion itself must bear some credit in prompting its own proliferation. That is, once equality was established as a basic right of men, the concept itself begged the question in regard to women and blacks in those nation states dominated by white males. While the values reflected here are by no means universal,<sup>14</sup>

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<sup>12</sup> See Commaille and Nalletamby, 1995, for a comparative analysis of the production of family law in five European countries. The research notes the role of socio-political, cultural, historical and institutional forces in the formulation of family legislation.

<sup>13</sup> The Lockean concept of individual property rights provides an even sharper contrast when considered alongside Maori notions of ownership. It is doubtful that a Maori theorist would promote an individual right to property ownership as a natural right and fluidity is evident in any cross-cultural examination of rights.

<sup>14</sup> This is not to say that a universal moral code is either possible or desirable. The absolutist/relativist debate is acknowledged, though it is noted that while laws tend towards absolutism, their implementation allows a degree of relativism, recognising the individuality of cases. While there is evidence of a degree of globalisation of values, in the absence of a coherent theory of rights, the development and acceptance of any universal set of rights is doubtful.

there is good reason to argue that they have had some, if only minimal by Western standards, impact on other societies where equality of the sexes or races or castes does not exist.

Evidence of some globalisation of values can be found in the various Bills of Rights promulgated by the United Nations over the course of this century. The UN Declaration of the Rights of the Child (a five point declaration of the rights of the child) was instated in 1923 by the International Union for Child Welfare (adopted by the League of Nations in 1924) Revisions occurred in a seven point document in 1948 and a ten point document in 1959, each extending the range of material and moral security to which children were entitled. Although these are more properly viewed as ideals, as statements of interests rather than rights, the UN's latest offering, the UN Convention on the Rights of the Child (UNCROC), along with those documents relating to human rights as opposed to children's rights specifically, can be seen as the promotion of a set of universal rights - though there is no assurance that those rights that are currently promoted will be accepted by all communities or in all future epochs. It is significant that the UN document assumes sufficient differences between adults and children to warrant the charting of a separate (and more protectionist) Bill of Rights for children. That is, the document's existence and promotion suggests an international belief that children (in this case, the Convention's use of the term "children" refers to persons under the age of 18) should be treated differently to adults, that the Bill covering human rights is insufficient or inadequate for promoting the wellbeing of children, but that the special protections provided by the children's Convention are inappropriate for inclusion in the adult Bill. Clearly this approach echoes the general theme of New Zealand's legislation, and in neither case is full equality for children and young persons proposed. While both the national and international legislation adopt a developmental approach to childhood, both the laws and their operationalisation increasingly bear the effects of the accent on children's rights. Implicit in the focus on rights is the attachment of a high valuation on equality. There is an inevitable conflict between a developmental approach and its associated appreciation of the need for protection, and a children's rights approach where the emphasis is on equality and autonomy. The former requires an asymmetry in the parent-child relationship whereas the latter promotes a democratic family structure. (There is a certain paradox, however, in advocating that the family

be developed into the smallest democracy, while at the same time insisting that some members be accountable for the wellbeing and actions of other members.)<sup>15</sup>

The differences between adults and children, and the concomitant dilemma that arises from the unequal allocation of rights between children and adults, have prompted much debate. Before addressing these issues, it is first necessary to outline how the concept of rights is to be understood here. It is acknowledged that debates surrounding general theories claiming that certain rights accrue naturally to human beings and are accessible to reason have existed and persisted to the present day. Equally contentious is the debate on whether morality is born of nature or convention.<sup>16</sup> Rights are variously termed natural, civil, legal, moral, human or fundamental, each term encompassing a particular understanding, but each also subsumed in a more general understanding.

Irrespective of debate concerning the derivation of rights, or of the particular terminology employed, it is clear that the notion of rights implies a legitimate, valid and justified claim (which may be positive or negative) upon society, and that those rights frequently referred to as natural, human or fundamental reflect the values and beliefs of the particular community. The legal ascription of rights changes the relationships between individuals and between individuals and the state, though many such changes may essentially be confined to the legal arena. That is, the changes may do little more than legally codify existing relationships and the interactions that they entail. Thus, the ratification of UNCROC, which requires children receive adequate nutrition and housing, for example, will have little practical impact on most parents in most western societies. Similarly, legally instituted participation rights in various activities - driving or voting, for example - will also have little effect on most families. In the former case, claim rights are given legal status, while in the latter case, liberty rights are the subject of legislation.<sup>17</sup>

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<sup>15</sup> The international motto of the International Year of the Family Committee, 1994 was "Building the smallest democracy at the heart of society" (Syme, 1995)

<sup>16</sup> This (unresolved) debate can be traced back to Aristotle and the concept of Natural Law. Western moral discourse on the topic was prominent some 340 years ago when the work of Thomas Hobbes revived the notion of convention, the social contract, within his general theory of government. While there is a large body of work examining the possible bases for natural rights (see Hart in Luper, 1999 for a recent exposition of the topic; Rousseau, 1762, in Bonevac, 1999, for a denial of the existence of natural rights; or VanDeVeer and Pierce, 1986, pp. 10-16, for a brief history of rights theory), other writers simply assume natural rights and argue from that standpoint. Also see Mill, J, 1861, for the utilitarian approach, Burke, E, 1790, for a relativist account and Berlin, I, 1997, for a pluralist approach. For an introduction to the debate surrounding the ascription of rights to children, see Purdy, 1992.

<sup>17</sup> There are two broad categories of rights - liberty rights and claim rights. Liberty rights are those rights designed to ensure autonomy and non-interference by others: the right to life, for instance, dictates that

The tendency has been for both types of rights to increase as greater consideration of children and young persons has permeated the policy arena. Without doubt, some of the changes have produced tensions not previously part of the parent-child relationship. This is particularly the case where children and young persons have been ascribed greater participation or autonomy in decision making. There now exists a legal nexus wherein the respective rights of parents, children and the state compete, where previously only the rights of parents and the state were considered and the relationship between parents and their children was largely ungoverned. Of itself, the promotion of children's rights need not affect parents negatively to any substantial degree, since the interests and wellbeing of children and young persons are the focus of both parents and the legislation. Problems arise in those instances where an imbalance exists between the rights and responsibilities of the respective parties. The high valuation attached to equality and autonomy, which accompanies the changes, requires that these concepts be examined for their implications for parents.

This thesis does not advocate total equality for children, though it is implicit in the notion of children as citizens. The protections offered by the developmental approach implicit in the legislation are accepted here as sensible and proper. This acceptance is not universal, however. The notion of protection is problematic in some quarters<sup>18</sup> in that it is deemed to objectify children and undervalue individual autonomy. This debate will not be visited here in depth, though it is argued that it is simply not enough to advocate the ascription of autonomy, irrespective of the age or maturity, without reflection on whether the adult valuation of autonomy is an appropriate valuation to apply to children and young persons. Current

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individuals be free to live out their lives without fear of life being cut short by the interference of another individual. More than this, liberty rights ensure that others may not act in such a way as to prevent one from following one's desired course in life, except in as much as that desired course might impinge on others' rights to do the same. It is clear that children and young persons are not accorded liberty rights to the same extent as adults. It is also clear that in many (non-legislated) ways, parents may be said to be violating their offspring's right to follow a desired course in life simply by undertaking the duties of parenthood.

Claim rights impose responsibilities on individuals and/or the state in order to protect others' interests, though it should be noted that rights are generally less extensive than interests. While the liberty rights of children and young persons have been noted to be less extensive than those of adults, the reverse is true of claim rights. This group enjoys claim rights (again on the grounds of protection) not available to the adult population - rights concerned with the provision of the necessities of life by others, and typically contained within child-focused legislation. Much of the responsibility for this provision falls on the parents, though less so than a century ago. Both categories of rights are relevant in the present context, and it is clear that the claim rights of children and young persons present a range of duties and responsibilities for parents, which exist by virtue of the relationship between parents and children.

legislation signals a value system which affirms that in the case of children and young persons autonomy must be accorded a lesser value, at least for a time. The focus on rights suggests this value system is changing and greater autonomy may well be ascribed to children and young persons. Those who advocate such change would do well to ensure that they do not replicate the very behaviours of which they are so critical. It is imperative that the views of children and young people are considered and the high valuation attached to increased autonomy by liberationists may not be supported by those they seek to liberate. Indeed, recent research contends that interdependence, rather than autonomy, is considered a key value by children (Mayall, 1999).<sup>19</sup> On the matter of objectification, the individual's right to control the image of self that is constructed is as fluid, and as subject to mitigation, as any other right. Conflicts require value judgements if resolution is to be achieved. In the current social and political context, prevailing values are such that children or young persons' rights to control the construction of their image is temporarily subjugated in the interests of their wellbeing. Furthermore, it is not the case that objectification is inherently or invariably negative and any law designed to protect individuals (children or adults) may be seen to objectify those individuals to some extent. None the less, the need for greater consideration of children and young persons as subjectivities and active participants is acknowledged - particularly in regard to the research process.

The arguments of liberationists notwithstanding, there remains a continuing effort directed at increasing participation and autonomy for children and young persons. While current legislation essentially replicates the dichotomy historically faced by parents and their offspring in regard to the degree of participation and autonomy which is to be accorded at a particular

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<sup>18</sup> Liberationists contend that justice requires that children be treated no differently to adults, that they should be accorded the same rights and freedoms as adults, and that the consequences of doing so are likely to be far less problematic than general society would expect. Purdy (1992) examines this debate.

<sup>19</sup> There is also a practical aspect to the debates surrounding appropriate age and restricted autonomy: it is easier to accommodate an exceptionally competent child under a restricted regime than it is to accommodate an exceptionally incompetent child under a liberated regime. If worst case scenarios are to guide our legislation (and it is not entirely clear that they should) it makes some sense to risk the possibility of frustrating a competent child in preference to risking the possibility of facilitating the (perhaps tragic) actions of an incompetent child. Most parents will allow a particularly mature child more than the usual degree of autonomy, and doing so is usually unproblematic under the present regime. With total liberation, parents of an unusually incompetent child would have no legitimate means of preventing, or even minimising, any self-inflicted damage that the child's incompetence may engender. Central to this argument are notions of what may or may not be in the child's interests, and whether the child's assessment of his/her interests should be privileged. A child or young person may well know what he or she wants in a particular situation, but this should not be confused with knowing what is in his/her interests.



age, it is set within a context of increasing cognisance of children's rights. References to equality and democracy characterise the rhetoric accompanying the current thrust of the children's rights movement. While absolute equality is not advocated by most child advocates, notions of equality, particularly as they relate to participation and autonomy, affect perceptions of parents and the parent/child/state nexus and the relationships between them.

### ***Equality revisited***

The subject of inequality in human relationships is a fundamental issue of moral philosophy and is a universally recurring motif in all discussion of the human condition. It underlies the normative choices to be made in ideology, politics and power. In the case of children, the notion of inequality raises contradictory issues that can only be described as paradoxical (McDonald, 1980, p.22).

The general legislation's implicit acknowledgment of a developmental path from childhood to adulthood is indicative of the normative choices prevailing in current New Zealand society in that it retains an unequal allocation of rights and highlights the asymmetric relationship between parents and children. Asymmetric relationships occur in many spheres - state/citizen, earlier/later generations, parent/child, teacher/pupil - and, though some may be inappropriate and require remedial attention, the asymmetry is often a benefit, rather than a disadvantage. Unequal relationships such as these have tended to be "treated as analogies of relationships between equals. But such analogies may not be adequate to deal with important dimensions of unequal relationships" (Purdy, 1992, p.65). The practice also indicates an assumption that equal relationships are the measure by which all relationships are to be evaluated, allowing asymmetry no validity in its own right. This suggests equality is accorded a primacy in all contexts and situations in modern western society, when clearly the legislation indicates otherwise. Indeed the legislation suggests that the common association of equal rights with social justice is not absolute, that absolute equality is not always desirable or sensible. Despite this, there remains in the public consciousness a strong association between equality and justice, and instances involving the unequal allocation of rights tend to be regarded as deviant. The perception of inequality or asymmetric relationships as deviant has become part of the context within which children, young persons and adults operate and the difficulties that arise from this are a further strain between parent and child.

The perceived deviance of asymmetric relationships is connected to a further corrosive influence on parental *mana*. It is useful at this point to draw some comparisons between the

promotion of children's rights and the campaigns for rights for blacks and women. There is a sense in which allocating rights to a group not previously possessed of those rights necessarily affects the power and public image of existing rights holders. Thus the addition of women to the electorate reduced the power of existing male voters, and the changes in marital laws similarly reduced the power of husbands. Similar parallels can be found in the allocation of rights to blacks and children. Whites and males, however, are a political force in ways in which parents are not. Broadly speaking, rights campaigns are premised on the oppression of the group devoid of rights. By implication, the dominant group is cast as the oppressor and is inevitably demonised to some extent. The struggle for rights for females and blacks was accompanied by rhetoric critical of their counterparts. The veracity of these criticisms is not at issue here. More important is the capacity of white males to maintain their dominance following the ascription of rights to blacks and females. That is, white males had at their disposal a political power not available to parents. Thus not only did their dominance continue, albeit adjusted to accommodate the changed circumstances, they were also in a position to minimise, even neutralise, the effects of their demonisation. Not only are parents unable to exert such a political force, their incapacity in this regard further exacerbates problems in the private and public spheres, since their unanswered demonisation becomes part of the parent-child relationship and the parent/child/state nexus.

A second significant difference also pertains to the promotion of children's rights, as opposed to women's or blacks' rights. This relates to the private domain and the element of responsibility that applies to parents. That is, though the parents' power may decline as children's rights increase, their responsibility does not. There is no equivalent element of responsibility in the black/white or male/female rights scenario. Thus while the changes in relative power may be frustrating for some whites or some males, there is no corresponding sense of responsibility for the group with newly acquired rights. Whites are not held personally accountable for the behaviour and wellbeing of blacks, nor males for females. Indeed, there was no relationship of responsibility prior to the ascription of rights. It is here that the conflict between parents' rights and children's rights is most evident, though, again, the conflict can be viewed as little more than formalising existing arrangements. Parents have long struggled with the consequences of their offspring's (sometimes unwise) autonomous decisions. Their offspring's legal capacity to make some decisions at an age which some parents consider to be premature does not change the essence of the struggle. It does, however, shift the public

perception of the cause of the struggle and allows the conflict to be viewed publicly as one of competing rights. None the less, some aspects of granting legal autonomy to children and young persons are problematic. The conflict rests, however, on the apportioning of responsibility, in as much as parental obligations continue beyond the point at which their children's autonomy is legally prescribed in some instances. The extent to which continuing parental responsibility is problematic is amply demonstrated in the health arena, discussed below.

### ***Rights and responsibilities***

Many claim rights have now become embedded in national and international law, and failure or inadequacy in meeting the claim rights of their offspring can prompt both social and legal sanction of the parents. Indeed the rights and responsibilities of parents have tended to converge in the public eye, such that, while children's rights have gained prominence, parental rights have been subsumed, as exemplified by the comments of the former Commissioner for Children: "On analysis, perceived parental rights are in fact parental responsibilities" (O'Reilly, 1997, p.5). While in strictly philosophical terms this argument is tenuous, there is a sense in which this analysis is inarguable. Much of the legislation focusing on children has sought to eliminate the view of children as chattels, and to hold parents accountable for their children's wellbeing and their children's actions. On this view, the initial absolute rights that pertained to parents have been eroded and replaced with general and specific responsibilities toward their children to a degree that gives credence to the Commissioner's analysis.<sup>20</sup> Though philosophically fragile, his analysis is an apt description of historical developments in both legislation and public attitudes. The tendency to view parental rights as responsibilities is not peculiar to New Zealand and is increasingly evident throughout Western societies. There is evidence of a shift in terminology in recent years. Previous terms such as "authority" and "control" have been replaced by terms such as "responsibility" and "care" (Millar and Warman, 1996, pp.22-3). The tendency has some troubling aspects however.

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<sup>20</sup> National legislation tends toward general responsibilities relating to care and control, while international law (UNCROC) is typically more specific, citing children's rights in regard to specific aspects of life such as religion, education and living standards. Again, however, the wording takes a broad approach, and, if trans-national acceptance of the convention is to be encouraged, this is sensible.

If indeed parents' rights are merely responsibilities, the analysis suggests that any power once attached to parents has not merely been adjusted, it has been obliterated.<sup>21</sup> Clearly this interpretation is not sensible when considering infants and young children. Parents have the power to determine most facets of the lives of this group. Where the parents' choices conflict with the professionals or with the wishes of an older child or young person, however, the rights of the parents are less assured. January 1999 brought the parents' precarious situation in relation to the professionals into sharp relief with the publicity surrounding the case of three year old Liam Williams-Holloway.<sup>22</sup> The case highlights both the ease with which parents can be cast as irresponsible by the professionals, and the relative powerlessness of parents in relation to the state. Furthermore, while the law vests the state with the final word on the best interests of children, effectively disempowering parents when choices conflict, their position is further eroded by practices informed by the O'Reilly analysis. That is, the perception of parents as bound by duties, rather than empowered by rights, engenders practices different from those that would pertain under reverse circumstances.

The connections between rights and responsibilities need to be addressed here. There are a number of ways of viewing this issue, one of which encompasses the idea that, for example, the right to life imposes a duty of non-interference on others. A second view is exemplified by O'Reilly's analysis of rights as responsibilities. This may be further extended such that the possession of a right imposes a duty to exercise that right, and to exercise it properly. While this is clearly the standpoint evident in O'Reilly's analysis, it is not universally applicable, nor is it morally defensible.<sup>23</sup> It is not the case that the ascription of rights to a community, or to a particular section of it, will necessarily impose responsibilities on the recipients. This is most evident with claim rights (an infant's right to the necessities of life imposes no duty on the

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<sup>21</sup> With the exception of custody, guardianship and access as delineated in New Zealand's Family Law package, and of discipline by way of corporal punishment under s59 of the Crimes Act, parents' rights tend not to be legally prescribed.

<sup>22</sup> Liam's parents chose to seek alternative therapy for Liam's serious medical condition. Local health authorities sought and were granted Court Orders requiring Liam to proceed with conventional treatment. As a result, Liam and his family spent several months in hiding - amid a blaze of publicity - in order to avoid the conventional treatment and to pursue alternative therapy. A wave of public support, together with their own willingness to defy the law, eventually saw the family return home and enter negotiations regarding future treatment. The special circumstances of this case resulted in some victory for the parents. Without those circumstances Liam's parents would have retained responsibility for their son, but would have been deprived of the right to make an important choice on his behalf.

<sup>23</sup> See Hart in Luper, 1999, pp. 258-60 for an exposition of the distinctions between liberties, rights and duties.

infant, nor indeed on children or young persons), but can also apply to liberty rights. The right to vote imposes neither a duty to vote nor a duty to cast a valid vote, in this country at least (though it does impose a duty to enroll as a voter).

Those rights which may legitimately be viewed as imposing a duty are those to which some form of accountability is attached. The parental right to guardianship and custody is endowed with a duty of care in respect to their own behaviour and that of their offspring, reinforcing the notion that parents have a duty to raise their offspring properly - to be well-behaved, social, unproblematic beings. There is, however, no similar legal imperative for children, and the obligations attached to young persons are considerably diluted. The increased claim and liberty rights enshrined in national and international legislation impose responsibilities on both parents and the state. The state, however, is considerably better able to resist fulfilling its responsibilities without sanction and, on occasion, the law facilitates this.<sup>24</sup> At the wider level, the state's failure to implement adequate processes and facilities for *at risk* children and young persons is not subject to sanction, while parents who fail in the same regard at the private level are readily sanctioned. Parents, then, have limited rights on their own account, rights increasingly viewed as responsibilities, along with increasing responsibilities by way of increasing claim rights ascribed to their offspring. At the same time, parents are subject to an erosion of the *mana* of previous generations of parents as a result of perceptions engendered by notions implicit in the children's rights movement.

### ***Repositioning the parties***

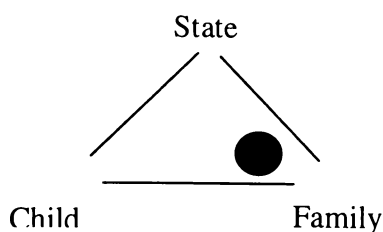
The relative power and respective rights and responsibilities of the parties have changed considerably during the period under review, though perceptions of the connections between rights and responsibilities continue to be distorted. In describing paradigms of the family throughout New Zealand's history, the balance of power and responsibility among children, family (parents) and the state at four different points in time is represented in diagrams depicting a triangular contestation of the territory (Morris Matthews and Matthews, 1998). While the general thrust of the diagrams is accepted, there is a need to take issue with the decision to represent power and responsibility as one and the same.

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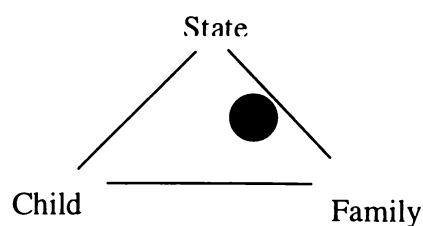
<sup>24</sup> The state is not financially liable for damage incurred by children or young persons in its care, for example. Parental duties, however, are legally enforceable in that parents are deemed financially responsible for compensating for any damage resulting from their child or young person's behaviour.

Power Balance (as depicted in Morris Matthews and Matthews, 1998, pp.59 & 82.)

Circa 1850



Circa 1997



The initial diagram (p.59) is accompanied by text that clearly equates power and responsibility. While the two may indeed have existed in tandem in 1850, it is argued that, in the period since, there have been marked shifts in both, though not always in the same direction. The diagrams depict the increased power of the state and children, and the decreased power of parents, but fail to represent adequately the fluctuations in parental and state responsibilities. The anomaly is increasingly evident in the diagrams depicting later periods. The two variables should therefore be plotted separately, though the appropriate positioning of the variables would be dependent on which influences are taken into account.<sup>25</sup>

None the less, the analysis is a useful demonstration of the tendency to conflate rights and responsibilities. The assumption that rights are necessarily commensurate with responsibilities, or that the two are equivalent, interchangeable concepts (as O'Reilly contended), is common and further erodes public perceptions of parents. The corollary of this assumption is that parents are possessed of sufficient power to fulfill adequately the full range of their responsibilities, with any conflict being viewed as one involving competing rights. The misconception also facilitates further misconceptions. The tendency - particularly within the media - to view increasing children's rights as diametrically opposed to the rights of parents (and to view the conflict as merely in terms of rights) obscures the nature of the conflict and predisposes the arena to an adversarial style. While the relative power of children and young persons has increased and poses some problems for parents, these tend to replicate the sorts of

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<sup>25</sup> If state involvement in health, education and welfare (in terms of the financial assistance given to families) is factored into decisions about the relative position of the parties, different points will be plotted. Furthermore, the assumption of responsibility for some aspects by the state entails a shift in power that is not replicated in those instances where responsibility is devolved back to the family. Thus the introduction of Tomorrow's Schools did not return to parents the power to decide whether or not their children received a formal education or give them free reign in deciding what they were taught, though it did impose greater responsibility for the functioning of their children's schools.

problems typical of the tensions between protection and autonomy. These are familiar tensions in the family domain. Greater relative power has accrued to the state and this produces a tension not previously extant in the family domain. The territory is therefore complicated by the encroachment of the state and the power of its representatives.

The relative power of the state and professionals has resulted in something of a backlash in western countries, with moves in 1995 in the United States to enact a Parental Rights and Responsibilities Act. Introduced by a number of Republican representatives and associated with the Christian right, the bill sought to ensure the right of parents to direct and control the upbringing of their children without interference from Federal, State or local government or any official acting for them. The bill was opposed by medical associations, child advocates, women's rights groups, educationalists and welfare workers on the grounds that it left official agencies vulnerable to costly and lengthy litigation and by some church groups on the grounds that it would not achieve the parental autonomy desired. The bill did not proceed past the Senate Judicial Committee in 1996 (<http://thomas.loc.gov>). The tangle of potential problems highlighted by the attempt to strengthen the position of parents through legislation serves to illustrate the hazards of increasing legalism in the family arena and demonstrates the nature of the increasingly contested territory that children and young persons now constitute. While establishing children's rights in law has created problems for those responsible for children and young persons in its own right, responding in kind is likely to compound problems rather than solve them.

### ***Legalism – the changing power relationships among children, parents and the state***

The substance of the last several pages is testimony to an aspect of the modern era which further impacts on the parent-child relationship - that of increasing legalism. In this, child welfare follows the tendency of wider western society in that, if the market, the individual and change are the character of the modern era, legalism is surely its signature. Transposition of this precept to the world of children however, has the potential to run counter to the declared objective of ensuring children's best interests. Dependence on a legalistic approach may well produce an outcome that is correct in law, but falls short of prevailing notions of justice and common sense. That is, the character and signature of the modern era do not transpose comfortably to the family domain.

Prior to the Guardianship Act 1926, children were the property of their father and their mother's legal status was precarious to say the least. It is important to note that the absolute authority of the father is the starting point from which case law has developed, and which government legislation either supports or changes. New Zealand's common law essentially rested on English common law and the tradition of absolute paternal authority was transferred from England with the colonists as surely as was the tradition of roast beef and Yorkshire pudding.<sup>26</sup> The erosion of absolute paternal authority has followed a similar path in both countries (Taylor and Smith, 1997, p.7). Concern for the wellbeing of children necessitated the introduction of laws for the purpose of protecting their wellbeing. Inevitably, these laws adjusted the power and authority of the parents. As noted, much of the legislation has little substantive effect on most parents and their children. On occasion however, the changes present parents with considerable difficulties. Recourse to the legislative process would appear to be a rational response to the current frustrations experienced by parents. Such a response, however, accepts the assumption that a legalistic approach to the family is appropriate. It is not at all clear that this is the case, and indeed it is not difficult to imagine that a legalistic approach is part of the problem. Certainly the types of bonds intrinsic to notions of family (communal and emotional) sit uncomfortably with the types of bonds created by legalism (individual and contractual). This is not to suggest that all legislation enacted to secure and protect the wellbeing of children should be rescinded, for although the legislation itself presents problems, other influences are also significant. It may be more appropriate to acknowledge and address these other influences than to resort to further legalism. That is, the legislation *per se* need not be hugely problematic if the context in which it is administered is imbued with values and perceptions conducive to a high valuation of parents.

Legislation in the child welfare sector, as in other sectors, has generally been enacted when the position of individuals or groups has been recognised as unjust or untenable. Contextual changes - political, social, economic and intellectual - allowed for the recognition and acknowledgment of the untenable position of some children last century, prompting the beginnings of legal protections for children. In the absence of awareness that problems existed,

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<sup>26</sup> It is acknowledged that there exists in New Zealand a prior, and often ignored, tradition in Maori customary practice, and that indications are that this will have an increasing impact on the direction and content of future legislation. The fact remains that the current legislative and judicial systems in New Zealand are based not only on the British model, but also on British values and traditions. This being the case, it is necessary to consider the development of family legislation from this perspective.



the parent-child relationship was not viewed as requiring governance. Generally this is likely to have been the case, but in the interests of those minors for whom it was not the case protective legislation was enacted. As the context changed further so too did the legislation. The original position of absolute paternal authority was gradually eroded through a process that has ranged over multiple areas of family life.<sup>27</sup> Shifts in values, politics, and economics are all evident in the legislation and its amendments throughout the century. Less evident is the impact of those shifts on the implementation of the legislation.

It is not the intention here to advocate a return to absolute parental authority, merely to point out that there is a need to view the law at more than one level. The first is to consider the legislation itself with a view to discovering its implications for all the parties concerned. In the event of anomalies it may be that these need not be hugely problematic, *ceteris paribus*. The second level at which the legislation must be considered is contextual. There is a need to augment the initial analysis with an understanding of how prevailing values and practices can affect the operationalisation of the legislation and reinforce or minimise anomalies. For example, in the interests of the majority, the law has the ability to over-ride the wishes and decisions of parents in circumstances in which the parents might reasonably be regarded as being in a better position to make a choice. Thus it is possible, for instance, for a immature sixteen-year-old to move out of the family home, irrespective of the parents' wishes or concerns, simply because the law allows it. Furthermore it is possible for young persons to obtain a state benefit (IYA) for the purposes of maintaining themselves away from the family home.

Given that it is possible at the age of sixteen years to leave school and enter the workforce full-time, it would be nonsense to suggest that all young persons be forced to remain in the family home till a later age even though they are capable of independent living. When that independence is contingent upon receipt of a state benefit, however, the recipients must demonstrate that it is impossible for them to continue to live at home. It is at this point that context affects the operationalisation of the legislation, and the process encountered highlights

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<sup>27</sup> There is a sense in which the legislation can be viewed as attempting to reduce parental authority in tandem with allowing recognition of mothers' rights. In instituting parental, rather than paternal rights, the state granted women a greater power and authority in the raising of children. It is not improbable that the unease generated by this prospect gave impetus to finding means of providing increased input by a male-dominated state sector, thereby removing from parents the sole right to determine the choices to be made regarding their children, though this gender-related aspect will not be examined here.

the precarious position of parents in situations where the law is not appropriate for their particular offspring. There is no doubt that for some young persons the availability of such a benefit is essential. For others the need is more contentious and, when parents and young persons disagree as to whether or not it is possible to continue living together, those granting the benefit must make a value judgement having considered all relevant information. The relative weight accorded to the parents' position is likely to reflect current attitudes to, and perceptions of parents, authority, children's rights and autonomy. Failure to consult parents prior to making a decision suggests that parents are regarded as irrelevant. Consequently, young persons are able to access - via the school counsellor, child welfare agencies and the state benefits organisation - the Independent Youth Allowance, with the entire process being completed in the absence of any contact with, or information passed to the parents (Hodson and Rosemergy, 1994, pp.198-9).

The problems outlined thus far tend to be generated by the concept of children's rights *per se* and public perceptions of an intrinsic conflict between parents' rights and children's rights. The practical expressions of these rights in specific initiatives within the child welfare sector pose further problems for parents.

### ***Advocacy for Children and the Reactive Dangers***

Evidence of a growing consideration for children's rights in New Zealand is to be found in the report of the Steering Committee on a Bill of Rights for Children in 1976, the first comprehensive report of children's rights in New Zealand, and initiated as a precursor to the designation of 1979 as International Year of the Child (IYC). The Report's support for the development of a Bill of Rights for children assisted in strengthening the view of children as citizens and prompted a "flood of documentation and activities", which has continued unabated in the years since (McDonald, 1988, p.370). Advocacy for children was taken up in a variety of arenas - Parliamentary select committees, the Office of the Ombudsman (established in 1963), and the Human Rights Commission (following its establishment in 1977) - and by groups as diverse as ACORD, Jigsaw (an adoption service), the Salvation Army and the Society for the Protection of the Unborn Child (SPUC). A conference and a symposium,<sup>28</sup> both organised as part of the events for the IYC, are reflective of the developing debate on

children's rights. Certainly, there was no consensus on which course to take - whether a codification of children's rights was in order, or whether the courts should be the arbiter. At a more fundamental level, there was concern in some quarters that children's rights could never be realised in a society that remained patently unjust, while others pointed to the potential conflict between parents' rights and children's rights, and the proposal to establish a Commission for Children was viewed by some as a "parent clobbering machine" (McDonald, 1988, pp.367-8). The impetus provided by the IYC resulted in the formation of a non-governmental body, the New Zealand Committee for Children with the express objectives of (1) "promot(ing) the implementation of IYC Statements of Principle and their underlying recommendations ... and (2) ... act(ing) as an advocate for and in the best interests of children of New Zealand ..." (Lewis and Lockhart, 1980 in McDonald, 1988, p.369).

The notion of children's rights continued to gain momentum through the ensuing decades, and the proposed Commission for Children was realised in the child welfare legislation of 1989. The interests and rights of children were to be served by the establishment under the 1989 Act (s 410) of the Office of the Commissioner for Children, effectively providing a statutory advocate for children. Among the specific duties of the Commissioner under Section 411 of the Act is the requirement to promote the welfare and interests of children and young persons. Successive Annual Reports by the Commissioner track dramatically increasing demand on the Office's services, particularly in regard to informational inquiries and its complaints service, with the 1996 report noting a trebling of complaints over three years (Commissioner for Children, 1996, p.7). While there appears to be some levelling of the number of inquiries or complaints connected with the Act or the Children, Young Persons and their Families Service, the 1997 report indicates that the level of non-Act or Department complaints and inquiries continues to increase, with 368 complaints received in 1997 (310 in 1996) and 1147 inquiries (807). This aspect of the Commissioner's work provides ample evidence of the consideration of children's rights in areas other than welfare. The bulk of non-Act inquiries relate to education, though health, access and custody, the courts and children's rights *per se* are also represented. It is reasonable to assume that increasing demand for these services will also reach a plateau as knowledge of the Office's existence and functions reaches saturation. In the

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<sup>28</sup> The conference was sponsored jointly by the Human Rights Commission and the Law and the Needs of the Child Committee. The symposium on Social Policy and the Rights of the Child was hosted by Otago University's Department of University Extension.

interim, as then Commissioner, Laurie O'Reilly, noted in his briefing paper to the Minister in 1996, "operations are subject to the paradox that the effectiveness of the Office generates increasing demand" (O'Reilly, 1996, p.4). It is likely that expansion will continue for some time as the Office extends both its own and the public's perception of the array of issues in which it might have a role.<sup>29</sup> Somewhat contrarily, the 1998 Annual Report of the Commissioner illustrates a contraction of outputs, but this relates to staffing difficulties and the illness and passing of Commissioner O'Reilly rather than any downturn in complaints received. Changes in procedures in 1999 make output comparisons difficult, though the 1999 Report notes that "complaints and inquiries continued to increase in number, variety and complexity" (Commissioner for Children, 1999, p.5).

The Office is fundamentally guided by the UN Convention on the Rights of the Child, though constrained in some instances by the detail of local statutes which are inconsistent with its provisions (O'Reilly, 1996, p.3).<sup>30</sup> Children's rights and civil liberties, and the Office's response to complaints in this regard, have tended to capture the attention of the media more readily than issues such as infant mortality. This has been particularly notable in incidents involving suspension or expulsion from school, on matters ranging from breaches of the dress code to involvement with drugs. Though a number of issues may be pertinent in each case, the Office's focus has necessarily been children's rights and best interests (though these are not necessarily equivalent), thereby furthering the concept of children as rights owners in the public mind. While some incidents generate their own publicity, this awareness has been augmented by frequent media releases by the Office as part of its strategy to meet its obligations regarding the "Education and Public Awareness" output category. Current Commissioner, Roger McClay, reports that all media releases by the Office in the 1997/8 year were used in some form by the media, and community newspapers throughout the country carried a monthly column covering children's rights (McClay, 1998, p.3). The 1999 Annual Report shows the

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<sup>29</sup> This likelihood is further assured as a result of research and projects initiated by the Office which to date range from reports on infant mortality and child friendly waiting places to the *Fathers Who Care* project. Indeed the 1998 Report notes, "the flow of complaints and inquiries to the office has continued to increase throughout the year with a particular focus on education and in particular special education issues" (McClay, 1998, p.3).

<sup>30</sup> See Ludbrook, 1999, for a resounding indictment of New Zealand's failure to meet its basic obligations under the Convention since ratification in March 1993. Non-compliance is noted in terms of both a failure to correct existing legislation and a failure to ensure compliance when drafting new legislation. The government's (in)action in fully implementing the convention is characterised by child advocates as representing an approach that "has been one of tokenism and hypocrisy" (Ludbrook, 1999, p.1)

promotion of awareness of child advocacy and child abuse through media releases, interviews, speeches and public presentations to have occurred at twice the anticipated rate (McClay, 1999, p.6).

Each year then, the visibility of the Office and public awareness of its functions and of children's rights and advocacy becomes demonstrably greater. Accompanying this are the negative aspects of rights movements, which are attached to the perceived oppressor. Thus the growing appreciation of children's rights fostered by the Office further erodes the faltering *mana* of parents, though there is no suggestion that this is intended. Public perceptions of the value of the work of the Office are evident not only in the increasing workload of the Office but also in funding contributions by non-state organisations, such as the contribution of the Save the Children Fund to the *Fathers Who Care* project (Commissioner for Children, 1998, p.22). It should also be noted that the increasing focus on rights necessarily entails an increasingly legalistic approach, as policy and practices are evaluated and interpreted in terms of the various local and international statutes, particularly human rights legislation. This is perhaps best exemplified in health matters, where a number of salient features are demonstrated.

The law requires that the wishes of children or young persons must be taken into account in instances in which they are deemed to understand sufficiently the matter at hand - competency commonly referred to as "Gillick competence".<sup>31</sup> Consequently, a sexually active teenage female may refuse all forms of contraception and undergo repeated abortions<sup>32</sup> (and is entitled to request and be granted entirely confidential treatment), as long as it is clear that she understands her choices and their consequences. Most adults are likely to find her choices to be most unsatisfactory, despite their correctness in law. The results of her decision, and her subsequent actions and reactions, all remain her parents' obligations as parents. Clearly such scenarios require that a delicate balance be struck, and it is not suggested here that the parents should be empowered to force a decision upon the young person. Rather the scenario is presented in order to draw attention to a further complication in the nexus of autonomy,

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<sup>31</sup> The concept of Gillick competence results from case law in Britain in 1986, in which the House of Lords responded to the concerns of Mrs Victoria Gillick regarding the dissemination of contraceptive advice and treatment to persons under sixteen years of age. The House of Lords determined that parents were possessed of diminishing powers and, in a series of similar cases it was determined that the individual competence of children in understanding circumstances and consequences should determine which decisions they may make (Basser Marks, 1998).

<sup>32</sup> Although the law does not allow abortion on demand, anecdotal evidence suggests that teens have little trouble accessing abortion, since early motherhood is readily classified as potentially harmful to the teen.

power and protection, wherein the legally sanctioned exercise of a liberty right by the young person can - paradoxically - result in further claim rights against the parents. Such cases exemplify the problems frequently ascribed to the competing rights of parents and children. The essence of the problem, however, is shown here to arise not from competing rights but from an imbalance of rights and responsibilities among the parties, most particularly the continuing responsibilities of the parents. International evidence suggests similar imbalances related to claim rights, with case law in Britain, for example, establishing a parental duty to support their (older) offspring financially in instances where their children are engaged in further education.<sup>33</sup> While cases such as these suggest a superior power is now attached to children and young persons, the matter of personal autonomy and the right to consent is not clear-cut.

While contraception and abortion are matters on which their consent is generally unchallenged and their right to choose is treated as paramount, there are other instances in which young persons' choices are supported only in as much as they concur with the choices of the adults around them. More particularly, the views of the professionals involved are likely to be the most decisive factor, over-riding the wishes of both children or young people and their parents. Again, legalism predominates, with conflicts between professionals and parents decided in the courts.<sup>34</sup> Court ordered blood transfusions are now commonplace, and other examples are reported periodically in the media. For example, in Britain in July, 1999 the courts ordered a heart transplant be undertaken on an unwilling teenage recipient.<sup>35</sup> Dr Vivienne Nathanson, Head of Health Policy and Research at the British Medical Association, noted at the time that, while young persons of sufficient maturity could consent to treatment, their refusal of treatment was able to be over-ridden by the parents or the courts, suggesting that the consideration of the young person's perspective lacks the substantive footing such an ethos

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<sup>33</sup> Although no longer children or young persons, these students successfully sued their parents for support for the duration of their studies (*Electronic Telegraph*, 16 October 1997, Issue 875). Current New Zealand legislation requires that parents remain financially responsible for their student offspring until the age of twenty-five, with student allowance entitlement abating according to parental income. While there is no current evidence of similar court action in New Zealand to date, the international experience may well be replicated here.

<sup>34</sup> Where children or young persons are not competent, it is not necessarily the case that consent to medical procedures is the prerogative of parents. See Bassar Marks, 1998, for a discussion of the role of the law in the development and promotion of children's rights in this regard.

<sup>35</sup> The 15 year old girl's parents were among those seeking to change her mind, but were unwilling to give their own consent in the absence of her agreement, even though they were legally entitled to do so. Also see Geddis, 1994, pp. 225-7.

requires (*Electronic Telegraph*, 16 July, 1999, Issue 1512). While the law, both in Britain and New Zealand, requires consideration of the wishes of children and young persons, the philosophy loses much in the translation into practice, with British patient advocate, Claire Rayner, viewing the transplant case as evidencing a “cruel absence of care” in its failure to abide by the girl’s wishes (*Electronic Telegraph*, 17 July 1999, Issue 1513). As the Williams-Holloway case in New Zealand demonstrated, it is not adults *per se* (nor parents) who hold the balance of power, but the professionals.<sup>36</sup> The subordination of the young person’s wishes to those of adults is among the problems that child and youth advocates seek to address in their promotion of the child’s right to be heard. The subordination of the wishes of the parents also occurs however, in those instances where the parents’ wishes are at variance with the professionals. Irrespective of any congruence between the wishes of the parents and their child, the wishes of either will not be fulfilled unless they coincide with those of the professionals.

The situation is further complicated for parents by the requirements of the Privacy Act of 1993. Premised on the concept of the autonomy of the individual, the Act affects parents’ right of access to information about their children. It does not recognise any family interests and relies on the individual’s valuation of family members for access to information. This is most problematic for the families of psychiatric patients and for parents (Stewart, 1994, p.78). For parents, this can result in restricted or vetoed access to information from health, education and welfare professionals and organisations, severely affecting their capacity to fulfil their parental duties. While the provisions of the Children, Young Persons and Their Families Act 1989 over-ride the Privacy Act (Wood, 1994, p.179), this is in the interests of information sharing amongst agencies rather than for the benefit of parents. Parents, then, are frequently unconsidered participants in the child welfare arena, despite the 1989 Children, Young Persons and Their Families Act’s emphasis on family. In undertaking the duties required of it under the Act, the Office of the Commissioner for Children often compounds for parents the problems inherent in notions of rights for children and further erodes parental *mana*.

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<sup>36</sup> A recent similar example of the prevailing power relations is evident in a second heart transplant case in Leeds, in which local medical professionals have refused a transplant to a nine year old Down’s syndrome patient, despite her parents’ wishes to proceed. The procedure is deemed suitable for such patients in other parts of Britain (*Electronic Telegraph*, 26 July 1999, Issue 1522). The courts in New Zealand similarly over-rode the wishes of the parents of Baby L in September 1998, when the decision was taken to remove the eight week old, brain-damaged infant from life support (*The Dominion*, 25 September 1998; *Sunday News*, 27 September 1998).

### ***Child Abuse Initiatives and the Consequences for Parents***

While the Office of the Commissioner for Children affects parental *mana* as a result of the focus on children's rights, perceptions of parents are affected in a different, though also unintended, manner by developments surrounding child abuse. Concern regarding child abuse had abated at the time of the first war and did not attract public interest again until the 1960s, when the Child Welfare Division began serious investigation of the causes and extent of abuse. An extensive national survey, initiated in 1967, found two or three children under sixteen in every 10,000 were likely to come to the Division's attention as a result of abuse.<sup>37</sup> Almost twenty-five percent of parents who abused had come to the attention of the Division in their own childhoods. In a fashion again similar to the reasoning of the Mazengarb Report, one element was singled out as of greater relevance - the previous official contact with some of the abusing parents was considered an indicator of a cyclical nature to abuse. Three quarters of those surveyed, however, had not been known to the Division as children. The great majority of families in the survey, therefore, offered no support to the notion of cycles of abuse, casting considerable doubt on the findings.

The amplification of the welfare state in the early 1970s, again under a Labour government, further entrenched the acceptance of state intervention into family life. While the welfare of children, particularly those born to single mothers was greatly improved by the introduction of legislation providing for the Domestic Purposes Benefit in 1972, the calls for children's rights and child advocacy were just beginning and the identification of mothers as abusers in the 1970 report was not lost on those opposed to state support of single mothers. Conservative opinion decried the "normalisation" of ex-nuptial births (Morris Matthews and Matthews, 1998, p.78) and increasing polarisation characterised debate on family policy on issues ranging from abortion to corporal punishment. A Ministerial Review Committee was established in 1976 to look into the operation of the Domestic Purposes Benefit in a context imbued by the then Minister, the Hon H J Walker, with echoes of the morals clauses of earlier times. The resulting report was replete with the moralistic tones of the earlier Mazengarb Report in its questioning

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<sup>37</sup> Sixty percent of the abusers were women, and the survey indicated that inner city children were at greater risk of abuse. Maori and Pacific Island children were many times more likely to suffer abuse than Pakeha children (Dalley, 1998, p.215). Diverse cultural attitudes to punishment and abuse were not considered in the monocultural analysis of the survey data, nor was there any acknowledgement of the greater likelihood of non-Pakeha families being subjected to closer scrutiny.



of the capacities of solo parents as parents and suggested that the DPB “encouraged promiscuity and unnecessary dependency amongst teenage girls” (McDonald, 1988, pp.332-3). The already faltering *mana* of parents was dealt further blows by the rhetoric surrounding both the single parent debate<sup>38</sup> and the reported incidence of child abuse. While the position of parents was increasingly undermined, the position of children continued to be the focus of reform.

In the period 1974-1984 much progress was made in recognising the need for thorough and knowledgeable enquiries into child abuse/ill-treatment, culminating in calls for “treatment and follow up monitored by expertise representative of the combined backgrounds of those services and professions generally involved - police, social work, law, paediatrics, psychology, psychiatry, nursing etc,” (DSW Report on Proposed Changes, 1984, p.3). In 1979, the National Children’s Health Research Foundation Symposium on Child Abuse recommended the establishment of a national advisory group on child abuse. In February of 1981 a standing National Advisory Committee on the Prevention of Child Abuse was appointed, with 12 members representing police, health, education, social welfare, legal, paediatric, psychological, psychiatric and social work professions. By this time awareness of child abuse had gained sufficient momentum to prompt the development of programmes by both community groups and government agencies to combat its incidence. Initially concentrating on stranger danger education for primary school children, such programmes began to reflect the notion that child abuse was an aspect of family violence. The content of the education programmes extended to promoting children’s understanding of appropriate and inappropriate adult behaviours, as exemplified by the *Keeping Ourselves Safe* programme jointly devised by the Police and the Department of Education.

Throughout the decades from 1960, practices surrounding the placement of *at risk* children and young persons bear the evidence of reactions to tragedies resulting from prevailing practices and developments in psychotherapy. As tragedies occurred and explanatory theories emerged from psychotherapeutic research, the pendulum swung alternately toward and away from placement with the family. The mid-1960s saw a phase in psychiatry of parent blaming (usually

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<sup>38</sup> An historical connection between single motherhood and abuse was also established in the 1970 Report. This has since been criticised as “mutually constructed” in as much as single motherhood represents the antithesis of a “proper family life” and “it is perhaps no historical accident that in New Zealand, child abuse became a public and political issue at a time of rising levels of ex-nuptial births” (Dalley, 1998, p.253).

the mother) for the emotional and behavioural difficulties experienced by the next generation, leading to the widespread removal of children from the home (Zelas, 1994, p.36). The detrimental effects of such separations began to be recognised, resulting in the pendulum swinging (reactively) in the opposite direction. Theories of maternal deprivation, of critical periods in human development, and of bonding difficulties when more than one caregiver was involved coloured both public policy and private behaviour.<sup>39</sup> It became official policy to return children to their families, to avoid separating them in the first place, and to emphasise the prevention of family breakdown. During the 1970s there developed an increasing awareness that even loving parents can and do neglect and abuse their children, an awareness informed by the previous decade's parent-blaming climate and given impetus by tragedies such as that of Maria Colwell in Britain in January 1973. If the detrimental effects of separation from family had previously been cause for concern, the repercussions of this new policy provoked (eventually) even more outcry. Due in large measure to the investigation of the death of Maria - and its accompanying publicity - it was argued that the pendulum had swung too far (Howells, 1974, p.13). The combination of emphasis on family in both the public and private domains, and the attempts to redress the balance in terms of the often unjustifiable separation of children from their parents in earlier times, had produced the conditions that allowed Maria (and other children) to be consigned to a life of abuse and early death. While there was not a return to widespread institutional care, the enthusiasm for returning children to their families abated somewhat in a tacit acknowledgment that, in seeking to secure the protection of children and their rights, the state was prone to some of the very injustices it sought to redress.

During the 1980s the growing awareness of child abuse, particularly within the child welfare industry, acted to push the pendulum further from the natural parents. While the various incidents and policy responses to them serve to highlight the problems inherent in reactive policy decisions, corrective responses tended to focus on children's rights and interests rather than those of their parents. This was not equivalent to reducing the relative power of the professionals as compared to that of parents, though some responses adjusted the balance of power between children and professionals, particularly for those children and young persons in residential care. Overswings of the pendulum, such as these, are usually evident in practice

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<sup>39</sup> Though many of these theories have now been largely discredited as ethnocentric and without a scientific basis, they did have the occasional beneficial effect, as can be seen in the recognition of the detrimental effects of discontinuity of relationships for children in foster care.

outcomes in the relatively short term and a process of adjustment is enacted, though this often precipitates a further overswing. While this in itself is problematic, more important to this discussion is an examination of efforts to combat child abuse and the repercussions of these on the status and public perception of parents. The resulting erosion of parental *mana* is significantly more insidious than the types of unintended consequences of policy and practice described above. Its effects are less visible and its rectification is therefore largely unconsidered. Child abuse initiatives, however, continued to present little evidence of a consideration of possible detrimental effects on parental *mana*.

The stranger danger education programme proved to be the forerunner of a sustained series of educative school and media campaigns, the architects of which came to include the Children and Young Persons Service, in accordance with the preventive role ascribed to the Director-General in the Act. Other state agencies and community bodies also adopted similar strategies - fire safety, water safety, personal and sexual health have all been the subject of school and media campaigns. While all are aimed at improving or safeguarding the physical wellbeing of children (and adults in many cases), there is an element in those campaigns promoted within the child welfare sector that differs significantly from other more widely targeted campaigns. In publicity designed to increase awareness of water or fire safety the threat or danger - the enemy - is clear. The message is also clear, informing the recipient that fire or water is dangerous and must be treated with respect.

By contrast the enemy in early media campaigns regarding child abuse is ill defined. Without doubt it is human; it may be male or female; it may be a neighbour; it is likely to be a relative; it is most likely to be a parent or step-parent. All adults are potential threats and parents are deserving of particular scrutiny. Initial campaigns in the media were targeted at adults and sought to increase awareness and reporting of abuse. Subsequent campaigns also targeted children. While in both cases there was an explicit message exhorting the viewer to report the matter to a responsible adult, less clear were the means of identifying abuse or its perpetrator. The enemy was a vague, generalised other. This being the case, there were also a number of implicit, underlying messages connected with trust, respect and the previously assumed beneficence of adults, parents in particular - all negative. Later publicity campaigns centred on breaking the cycle of violence (physical, mental or emotional) that occurs when the current generation repeats the behaviours of previous generations. Here the enemy was clear: parents.

Targeting both adults and children, the campaign sought to exhort both to examine their own and others' behaviour. In seeking to break the generational transmission of violent behaviour, the campaign essentially encouraged children and young persons to evaluate their parents. The campaigns also effectively extended the range of people involved in the surveillance of parents, from the previous array of official agencies and professionals to include friends, neighbours, relatives and children.

The capacity of this group to undertake this evaluation notwithstanding, perhaps the greatest damage wrought by the campaign lies in the seeds of doubt that are sown in children and young persons' minds, and in the increased readiness of the general public to accept that parents abuse their children. The implicit conception of parents as threats or risks noted in previous eras is now explicit and the conception extends beyond the realms of state agencies and professionals and into the world of children. The practical expression of this erosion of parental status and autonomy is evident in the challenging of parents' actions both in the private domain by their children and in the public domain by professionals and members of the general public. Children's perceptions of what constitutes physical, sexual or emotional abuse can be wildly inaccurate.<sup>40</sup> The problem can be compounded by the doubt and mistrust engendered by the campaigns to the extent that parents' attempts to clarify a situation are not accepted by the child or professionals.

Similarly, the heightened awareness of child abuse generally has generated an environment of suspicion that can allow intervention to occur or aspersions to be cast where once there was likely to have been an assumption that the action in question had a history and context of which the observer was unaware. Additionally, there has been a redrawing of the boundaries regarding the point at which abuse can be deemed to be occurring, boundaries which are not universally accepted (smacking, for example) but which allow those who do not act according to these boundaries to be generalised as bad parents. There is no intention here to undermine efforts to raise awareness of child abuse, or to work towards solutions. Such work is necessary, urgent and deserving of support. The unintended consequences of efforts in this area, however, need to be noted and reconciled. The repercussions of the erosion of parental *mana* that has resulted from initiatives to ensure the wellbeing of children and young persons are

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<sup>40</sup> The accounts of children and young persons can also be chillingly accurate and it is not suggested here that these accounts be discounted. Again, the purpose of this research requires that aspects of the current context, which pose problems for non-abusive parents, be examined.

evident in the public arena at many levels and, in their turn, these repercussions further erode perceptions of parents.

### ***Mediated influences on parental mana***

Media reports on any number of topics connected with children and young persons routinely include implicit or explicit criticism of parents. While this is understandable (though not necessarily fair or accurate) in cases reporting youth crime, delinquency or under achievement, the practice also applies to seemingly unrelated topics. For example, a television report on the opening of an exhibition designed to give young persons simulated but realistic driving experience, included comment to the effect that it was also a means of overcoming the parents' influences (assumed to be troublesome) on their offspring's driving skills (*Breakfast*, TV1, 22 July 1999). Similar comments are attached to a multitude of educational initiatives for children and young persons, with the failure of some parents now operating as a justification for the disparaging of parents in general. Where once judges admonished individual parents and social administrators criticised particular groups, there is now a culture of parent-blaming so entrenched and pervasive as to be barely perceptible even to those who participate in it.<sup>41</sup> Ministerial announcements frequently include comment suggestive of deficiencies in parenting, though not directly critical of parents. Thus, in launching an information kit designed to make learning enjoyable for children, Education Minister, Nick Smith, included in his media release, "Parents need to realise that it is just as important to read to your sons as it is to your daughter" (Ministerial Announcements, 30 July 1999), implying parental inadequacy in both cognisance and action.

For some the practice is deliberate and explicit. Radio news bulletins reporting on the Palmerston North Boys High Rector's end of year address in 1998 reiterated remarks regarding parental performance which constituted around 12 percent of the entire speech. The school's achievements and developments were disregarded in favour of that part of the report which contended that

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<sup>41</sup> Hence, the CEO of a major Australian alcohol and drug foundation ends a communication to multiple Internet lists, in which he comments on research linking drug abuse and delinquency, with the words "how long can we ignore these children, born innocent but seemingly destined to a life of blame and punishment for the sins of their parents" (Update>Drug Watch, 22 July, 1999). The author of the post later commented that a general biblical reference was all that was intended by the remark and there was no intention to denigrate parents (pers. comm.).

too many families look for the easy option ... are not prepared to make the hard decisions that come with the raising, educating and setting of standards for young people ... are selfish and do not put their children first. The results are ... young people with too much to say, too much freedom, little, and in many cases no, respect for adults and/or authority ... The responsibility lies fairly with the family ... I believe that our curriculum is being strangled by the social agendas and the social curriculum that families have simply refused to address ... the Board this year has had to deal with large numbers of young people who refuse to behave ... Far too many fourth and fifth formers are allowed to run wild ... Far too many do not have the parental control that is absolutely necessary.

Rector's Report 1998, Palmerston North Boys High School

The Rector's remarks are direct and explicit in their criticism of parental performance and its relation to problems in the school. While his failure to acknowledge anything other than parental performance as a potential cause for the behaviours concerned is subject to challenge, his frustration and concern are understandable, as is his decision to air his concerns to the parents gathered at the school's end of year proceedings. Less clear is the rationale for the editorial decision of the media to publicise one particular part of one particular school principal's end of year address, except in as much as it reflects the current climate in which parents find themselves. It is a climate which allows repeated attacks on parents, raising the spectre of family values in multiple arenas. In an address to the Women as Leaders in Business conference in June, 1999, Prime Minister, Jenny Shipley, moved her discussion from leadership in business to leadership in values, once again isolating the role of parents. Although the connections between family values and leadership in business were somewhat tenuous in her speech, the local media ignored all but her criticism of parents in its reporting of her address. Headlined "Parents to blame for teenage troubles, says Shipley", the *Waikato Times* reported the Prime Minister's assertion that primary responsibility for young teenagers running amok on Wellington streets lay with the parents (*Waikato Times*, 19 June 1999, p.2). Again, the gist of the speech was ignored, and the only aspect other than parental performance which was reported, related to the time and place of the speech's delivery. Parents then, are targeted in the first instance by the politician and in the second by the media, neither giving any apparent consideration to more critical analysis.

There are occasional examples presenting a more positive view of parents, such as *Teens: Driving Parents Crazy*,<sup>42</sup> though these are the exception. In the case of this documentary, there was little

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<sup>42</sup> An Inside New Zealand, TV3 documentary, first screened in May 1998, and rescreened on 28 July 1999, which chronicled the struggles of a number of parents with troublesome teenagers.

in the way of editorial comment, neither blaming nor praising the parents, but rather simply presenting the views, actions and attitudes of both the parents and their teenagers. The manner of its reception is impossible to gauge, though the prevailing climate suggests little impact on the current poor public perception of parents. The media are, therefore, a further avenue by which the tendency to assume parental deficiency is perpetuated and crystallised within the public consciousness. Criticisms of parents have become commonplace and occur as part of the commentary on a wide range of media topics, sometimes with little obvious connection. While the ease with which this occurs is testament to the historical erosion of parental *mana*, the practice also serves to compound the erosion.

### ***Conclusion***

While current legislation demonstrates a progressive approach to notions of family, the context in which it has been implemented does not always support this approach. The implementation of a New Right ideology in the mid 1980s espoused an individualist philosophy at odds with the notions of family and community embodied in the 1989 legislation. The problem was compounded by the New Right's adoption of a family values platform, based on the debate surrounding the demise of the family. The accompanying rhetoric's inherent criticism of parents, combined with the tendency to explain a variety of social problems as resulting from the perceived demise of the family, served to continue the historical erosion of parental *mana* by transposing concerns for a perceived decline in values on to the family. While the arguments developed in support of this ethos failed to account for other significant explanatory factors, the family values campaign held considerable popular appeal with its seemingly simple remedy for the prevailing social malaise. The criticisms of parents on which the platform rested generated perceptions of parents that differed significantly from those that prevailed a century ago and practices within the child welfare sector were informed by these perceptions.

Further erosions of parental *mana* were fostered by the children's rights movement. National and international concern for children's rights has prompted the redefinition of parental rights as parental responsibilities, significantly changing traditional perceptions of parents to the extent that the capacity to fulfil those responsibilities is jeopardised. This effect arises not simply because a children's rights ethos increasingly informs the detail of child-focused legislation, but because it also informs the context in which the legislation is implemented. Implicit aspects of notions of rights - particularly those related to equality and autonomy -

result in corrosive influences on the *mana* of parents. The current high societal value attached to equality and autonomy engenders a pervasive aversion to almost all types of authority and power. The promotion of children's rights casts parents in the role of oppressors, a demonisation which parents do not have the political voice to counter. Anomalies also emanate from the increasing claim and liberty rights of children and young persons, though problems of this nature tend to replicate the common problems of parenting. The conflict between children's rights and parents' rights is more apparent than real. The dichotomy is one which parents have always faced - that of simultaneously ensuring both the continuing protection and increasing autonomy of children and young persons. The perception that a conflict exists between children's rights and parents' rights is problematic, especially where the state is concerned. It establishes unnecessary antagonisms which affect the practices and attitudes of the parties involved and the congruence of the aims of parents and child welfare professionals becomes lost in the ensuing antagonisms.

Specific initiatives within the child welfare sector have further tarnished the *mana* of parents, though this is an unintended consequence of the initiatives. The intervention of the state is necessarily - and appropriately - premised on assuring children's welfare and rights. That intervention implies, however, parental inadequacy in assuring the same. That this is not an accurate depiction of most parents has become increasingly obscured by the manifestation of this implication in the practices of those involved in child welfare. Parental attempts to balance the liberty and claim rights of their offspring are now subject to evaluation and prescription by the state, with problems most evident in the health and welfare arenas. This evaluation and prescription is undertaken with little input from parents, since their *mana* is now such that they are effectively marginalised by the organisations and processes from which they seek help.

Negative perceptions of parents are not confined to the child welfare arena, but permeate the social context in general. Criticisms of parents now occur in multiple arenas, frequently on tenuous grounds. Although some criticisms are relevant and presented - at least initially - in an appropriate context, there is a tendency for news media to focus only on the aspects of events that reflect poorly on parents. While this may sometimes reflect deliberate editorial policy, at other times the criticisms appear to be a matter of course, reflecting an attitude to parents that is dismissive and derogatory. These mediated images of parents both reflect and



compound existing poor perceptions of parents in the public and private spheres. The effects of the historical and continuing erosion of parental *mana* are evident in the experiences related by the participants in this research. The following chapter draws together the historic and current dimensions with the experiences of the parents in an attempt to find a viable way forward in the care, protection and management of *at risk* children and young persons.

## CHAPTER TEN

### **Parenting *at risk* children and young persons - a sociological perspective**

This thesis has presented an insight into the private world of parenting *at risk* children and young persons. The personal accounts of the parents of thirteen families' struggles with their *at risk* offspring give voice to a range of seldom acknowledged challenges to the successful fulfilment of the obligations and responsibilities of parenting. While the behaviour of their offspring presents its own particular challenge, further challenges were encountered by the parents in the process of seeking assistance in assuring the safe passage of their offspring into the adult world. Flowing from the parents' stories is an image of parents that differs considerably from the negative public images of the parents engendered by the accounts which open this thesis. While the personal accounts of the parents in themselves represent a necessary addition to the partial, decontextualised images of the public accounts, the disparities between the two images require explanation, rather than mere juxtaposition of the opposing images.

This chapter synthesises the public and private images of the parents. A full synthesis is not possible without recourse to conditions and circumstances not directly canvassed in the public and private accounts. While the parents' stories allow an understanding of some of the negative images inherent in the public accounts, they do not provide a comprehensive explanation of the disparities between the images. Accordingly, the chapter also undertakes a synthesis of the parents' experiences with aspects of the child welfare sector – the legislation and its operationalisation - which are implicated in the incongruence between the public and private faces of the parents. Again this allows a better understanding of the disparities and, again, the synthesis fails to provide an holistic understanding. While the immediate context of the families is a necessary component of a fuller understanding, so too is the wider context in which they and the child welfare sector exist. An essential aspect of the current context, in respect of both the child welfare sector and the wider social context, is the historical context from which they have developed.

Achieving an optimal explanation therefore requires that these wider factors also be accommodated within the synthesis. The parents and those with whom they interact are influenced by prevailing ideologies, attitudes and behaviours, all of which are the product of their individual and communal histories. The effects of the disparate factors requiring synthesis are often cumulative and, by virtue of their relationship to the field of enquiry,

are also intertwined and interconnected. The writing process does not always serve this aspect well, though the problem is perhaps endemic in exploratory sociological enquiry and reflective of the need for continuing related research. The result of the synthesis undertaken in this chapter is a sociological explanation of the challenges and impediments facing the parents of *at risk* children and young persons. These challenges and impediments allow negative constructions of the parents which conflict with their lived realities and exacerbate the problems they encounter. A sociological understanding of the prevailing conditions of parenthood is a tentative first step to the achievement of conditions which better serve the parents in their parenting task and, through this, to better serve the needs of their children.

### ***Aligning oppositional images of the parents***

The opening pages of this thesis introduce two of the families involved in this research. Events in the courtroom and the police cells - and the histories pertaining to the events - suggest that the teens involved are exhibiting behaviours which result from years of parenting which, at best, might be described as negligent and disinterested and, at worst, as abusive. Nita's mother is resoundingly condemned by the judge for the current predicament of her daughter. Her negative public image is not merely implied, it is explicit in the judge's words and attached to her private world. Hamish's father is not openly criticised, though he presents as having little interest in his son's problems and as requiring reminding of his parental responsibilities. In both cases there is the sense that current problems might have been averted if only the parents had acted responsibly at a much earlier point. Both accounts raise questions regarding the failure to seek assistance at the onset of problems or during the process of escalation from minor problems to the much more serious problems currently evident. They also cast doubt on the competency and caring capacities of the parents.

Chapter six began the process of supplementing the public faces of the parents with their private counterparts. Nita's mother's long search for assistance is outlined, along with a significantly different account of the family's home life and the sorts of violence that had taken place. The second court appearance casts Michelle's responsibility for Nita's behaviour in a vastly different light. The judge's original construction of the type of parent Michelle had been is shown to be based on incomplete and inaccurate information, manufactured by Nita for her own purposes and accepted by social workers and psychologists without confirmation of its accuracy. Hamish's parents are also released from the negative impressions of their public faces when their private faces are

revealed. Like Michelle, they too have devoted themselves to finding ways to modify Hamish's behaviour. Early problems were referred to the family doctor, who prescribed Prozac. Further problems with Hamish's behaviour and concerns in regard to his medication prompted further action, resulting in a psychiatric assessment and attempts to sever Hamish's supply of alcohol. Limited success in their attempts to find assistance and concern for Hamish's deteriorating behaviour prompted Tom to pressure the police to take further action. His reluctance to remove Hamish from the police cells was not the result of indifference or negligence, but a manifestation of the family's frustration at being unable to access assistance.

The contrasting images of the parents fostered by their public and private faces can be replicated for all the parents in this research. In each case the private struggles of the family counters the negative image of the public face and provides an explanation of how the negative image came to be generated, allowing an insight into the ways in which the public face of parenting produces misconceptions. An apparent initial inertia is seen to be related to the parents' unfamiliarity with the territory in which they find themselves. The first point of contact for accessing assistance is not always apparent, with the point at which the behaviour is sufficiently serious to warrant seeking external assistance also being problematic. Initial ignorance is explained in relation to expectations of the parenting career and the lower profile in the public consciousness of sources of assistance for these types of problems. Both the behaviour of their offspring and the search for assistance are imbued with an overwhelming frustration which is not evident in the parents' public images. While the parents' private faces provide an explanation of some of the events, behaviours and representations in the public accounts, they cannot satisfactorily explain other dimensions of the accounts.

### ***Legislative influences***

Some of the limitations and distortions of the public faces of the parents are connected to the legislation in that, while problems caused by the children or young persons are readily reported in the media, procedures for addressing the problems are closed to the media and general information on the official and private responses to the behaviour is seldom sufficiently newsworthy to warrant media attention. For the parents, this was a minor consideration (though the apparent lack of accountability contributes to prevailing negative perceptions of parents), with other aspects of the legislation proving considerably more frustrating. While none of the parents was familiar with the detail of

current legislation, its impact on their struggle was evident in a number of areas. Many of the parents struggled with truancy and absconding by their offspring, neither of which is an offence and neither of which requires referral to child welfare services. The omission in the current legislation of truancy as a matter for referral to care and protection services left the parents open to prosecution, but with no effective support in ensuring school attendance. It is not possible to gauge the effects of a serious official response to this early and more minor problem on the basis of the evidence provided by the participants in this research, though common sense (and current policy initiatives such as *Family Start*) suggest that the most effective intervention is early intervention.

Absconding and associated problems with drugs and alcohol were common among the problems reported by the parents and contact with the police afforded a means of easing the isolation of the parents. This contact seldom translated into substantive assistance however, with absconding and alcohol consumption by the young persons again not constituting offences or matters requiring referral to care and protection services. This allowed the opportunity of repeated absconding with little accountability for the child or young person. There is no onus on the professionals to take further action, though the parents faced possible prosecution for failing to exercise proper care and control. While drug use is an offence, none of the young persons was charged or referred to further services. A similar circumstance pertained to children and young persons who were aggressive towards their families or the police.

Offences against property tended to generate a more active response, with the offender being held accountable, usually within an informal process. Parents whose offspring indulged in offences against property therefore received considerably more support than those whose offspring indulged in truancy or absconding. Some parents were held liable for damage caused by their offspring, though they had neither the statutory means nor official support in curtailing behaviours (alcohol abuse, for example) likely to result in property damage. They required an escalation in their offspring's antisocial behaviour in order to access support. Children and young persons who are in the custody of the Director-General of Social Welfare do face sanctions for behaviours not classified as offences, affording the state greater leverage than parents in curtailing the behaviours. Similarly, the Act requires the monitoring of families who come to notice and provides for sanctions against parents deemed to be failing in their responsibilities, but no sanctions are available in respect of professionals who act contrary to the intentions of the Act, including such general failures as the lack of appropriate services and facilities.

The parents were repeatedly unsuccessful in attempts to mobilise services under the Act, though their offspring were uniformly successful in the same regard. The Act's requirements that the safety of children and young persons be protected and their interests be treated as paramount resulted in approaches by this group receiving serious responses. Invariably, the approaches by children and young persons included allegations against the parents. The addition in the legislation of serious differences between parent and child as indicators of a need for intervention resulted in some parents losing custody and care of offspring who were old enough to obtain an Independent Youth Allowance. More serious allegations of abuse required the parents to prove their innocence, though the supply of information regarding the allegations or the placement of their offspring was at the discretion of the professionals and proved difficult to obtain. The parents received negligible procedural or administrative assistance within the system, instead struggling within a process appropriately focused on the safety of the young person, but failing to accommodate the inevitable antagonisms which effectively deflected attention from addressing the young person's underlying problems. Antagonisms also arise from the requirement that the professionals observe the paramountcy principle, a principle that effectively requires them to align themselves with the child or young person. The result is not consistent with the mediatory ethos of the legislation and inevitably involves issues of power and the view of the child as contested territory. This demarcation between the family and professionals undermined the intentions of the Act in terms of the co-operative approach envisioned for care and protection matters.

The public images of the parents do not convey the constraints and impediments the parents face as a result of some aspects of the legislation. Though the parents' experiences prompted them to regard the legislation as being a considerable impediment to their efforts, this perception was generated by frequent reference by the professionals to aspects of the legislation by which they justified their denial of assistance or inability to intervene. These references were most often technically incorrect, and are more properly viewed as problems emanating from the way in which the Act is operationalised. In its ethos and principles the Act is explicitly supportive of the family group and, by extension, of the parents' efforts to meet their obligations. While the detail of the legislation poses some problems for the parents and fostered perceptions amongst the parents that their offspring were possessed of superior rights in their greater ability to activate the relevant processes and influence the professionals, the manner in which the legislation is implemented is of greater concern.

### *Implementing the legislation*

The broad approach taken in the legislation in regard to defining pertinent factors (the delineation of the family group or the definitions of children and young persons requiring care and protection, for example) allows the opportunity for the inclusion of a wide range of behaviours as indicators of a need for assistance or intervention. The inclusion or exclusion of particular behaviours is dependent on the way in which the Act is interpreted and implemented. While part of this process is determined by the attitudes and beliefs of those charged with its operationalisation, a significant influence can be attributed to the extent of resourcing applied under the legislation. The effects of funding are evident in the rationing of services experienced by the families.

The prevailing level of funding directly affects the point at which families will be eligible for assistance. The lower the level of funding, the more tightly targeted is the assistance. A higher degree of severity in the child or young person's presenting behaviours will be required before assistance can be accessed as available funds must first meet the needs of the worst cases. The parents' dilemma in regard to the point at which to seek assistance can therefore be compounded by the failure to convince the professionals that such a point has been reached. While there may be agreement that the behaviour in question is undesirable, antisocial, self-destructive and *at risk*, the ultimate determination of whether it will be accommodated within the parameters of the legislation lies with the professionals. Fitting an appropriate profile does not in itself guarantee assistance. Low funding and high caseloads predict that the parents will be disappointed in their efforts to secure assistance.

This circumstance was evident repeatedly in the parents' stories. Those who approached CYF of their own volition experienced rationing immediately. Those whose offspring were involved with CYF as a result of referral from other professionals or through self-referral by the child or young person experienced rationing when attempting to access extended services. This was sometimes not simply a matter of the scarcity of available funds, but also reflected the dearth of facilities and services available in the community to service the sector. Approaches to such services and facilities as were available were generally met with relegation to a waiting list. The Act requires the establishment of appropriate services and facilities, though the extent to which this occurs is also dependent on resources.

The parents' perception that their children were possessed of superior rights was compounded in the Act's implementation, since priority was legitimately accorded to their offspring's approaches to CYF. Available funds must first serve the needs of children and young persons, though the constraints of resources were not always immediately apparent to the parents. Where they were made explicit, parental readiness to meet the costs of assistance did not result in access to services, reinforcing the notion that the professionals and the child or young person were in a superior position in mobilising support and in terms of the respective rights of the parties. Parents therefore frequently felt excluded and unheard, since parental definitions of *at risk* behaviour were accorded little validity by the professionals and the connection to funding was often obscured. Resources and caseloads also feature in the failure to monitor compliance with the decisions of FGCs, family meetings or youth justice procedures, though again the failure is primarily perceived by the parents as a lack of support rather than a lack of funds. Funding is also implicated in the cases in which young persons were granted the Independent Youth Allowance, justified by the professionals as preferable to assigning the teens to a life on the streets. This type of concern was insufficient for parents to gain access to assistance when their offspring were repeatedly absconding, but were too young to be eligible for the benefit. Resource considerations are evident in the decision to grant the allowance to older teens, since the allowance is not paid from child welfare funds. Assistance to the families of younger teens would have required the commitment of child welfare funds, however.

The intent of the legislation was therefore effectively undermined by fiscal constraints. The assessment of *at risk* behaviour was undertaken on a comparative basis related to other cases and prevailing caseloads, rather than in relation to the intent and ethos of the legislation. There is no indication in the public accounts of the families of the impediments they faced as a result of rationing and the paucity of available services. The disempowerment of parents, which results from the focus of the Act and the resulting priorities seldom enters the public arena. Tightly intertwined with the legislation and its implementation are the effects of the decisions, attitudes and behaviours of the professionals involved.

### ***The influence of the professionals***

There is an obvious connection between the calibre and competence of those who implement the Act and the outcomes achieved by the process. Problems with high staff turnover and inadequately trained staff necessarily have a negative impact on families.



Negative publicity and the public profile that results from this discouraged one family from seeking assistance from the service and affected interactions between CYF and the other families, fostering a more cautious or critical reaction to the professionals. The prevailing image of the agency also fosters notions of a conflict between parents' rights and children's rights, with the professionals aligned with the child or young person and the parents marginalised and unsupported.

While constraints relating to the fiscal considerations the professionals must accommodate are acknowledged, the manner in which this is undertaken has the potential to ease or exacerbate the struggles of the parents. A significant component of the assistance the parents required was information. In the absence of active intervention by the professionals, advice and information regarding possible alternatives was essential. Many of the parents reported difficulties in accessing such information. This type of assistance from the professionals does not require the commitment of funds and only minimal commitment of time. It seldom eventuated, suggesting the professionals had scant regard for the plight of the parents. This disempowered the parents directly, since their contact did not alleviate their ignorance, and indirectly by way of the marginalisation fostered by the inaction of the professionals. Information flows were also problematic during more extensive contact with the professionals. The parents routinely reported problems in accessing information regarding their rights, their children's whereabouts or behaviour, or the reasons for actions taken by the professionals. Allegations of abuse posed particular difficulties, as did the failure to consult parents prior to granting the Independent Youth Allowance and several families were adversely affected by actions that were taken by the professionals in the absence of any contact with, or consent from, the parents. Upholding the intent of the legislation in cases involving alleged serious differences between parents and their offspring requires an accurate and comprehensive assessment of family circumstances by the professionals. Consulting the parents is necessary to the successful completion of this process. The professionals' failure to undertake this function reflects poorly on the professionals and indicates prevailing perceptions of parents within the sector.

Although the lack of information was problematic, so too was misinformation. The parents were frequently left with false impressions on matters ranging from the responsibilities of the professionals under the law to their own rights in respect of their offspring. Despite multiple contacts with the professionals, the parents remained confused in regard to the legal limitations pertaining to absconding and were largely

unaware of their ability to refuse to continue to care for their child. The parents became enmeshed in a cycle of ignorance as a result of misinformation, unaware that they were operating under false impressions. Their continuing ignorance frequently worked to the advantage of the professionals in that it forestalled the commitment of scarce resources. Again this is indicative of a troubling disregard for parents, which is not apparent in the public faces of the parents.

The professionals' disregard for parents became more evident during extended contact. The parents found themselves increasingly excluded from the decision-making process and unable to influence the decisions of the professionals. The accuracy of allegations was not investigated, and the parents' attempts to provide relevant information were ignored or dismissed. Only one parent was successful in influencing the professionals to any substantial degree. Her success was contingent on her superior knowledge and personal network and she was keenly appreciative of the problems similar circumstances would pose for other parents. Other parents whose circumstances were similar found no dignity or respect in the processes that they encountered. Most of the parents found their parenting abilities questioned and criticised, suggesting the disregard displayed by the professionals was based on an assumption that the parents were the likely cause of their offspring's behaviour. Again the parents were ashamed, demoralised and disempowered, their legitimacy shattered within the systems from which they sought assistance.

Disempowerment resulted from other aspects of interaction with the professionals. Repeated inaction by the professionals served to undermine the parents in their search for assistance and information, in their attempts to ensure their offspring complied with agreed punishments and in their efforts to prevent *at risk* behaviours such as truancy and absconding. The police were generally regarded as the most positive and responsive (and least judgmental) of the professionals, though substantive assistance was usually limited to those cases involving offending by the child or young person. Professional inaction was not simply a matter of failing to support the parents. It compounded the parents' problems by cultivating an impression that repeated absconding or truancy could be undertaken with impunity. The family empowerment heralded in the legislation is therefore intrinsically connected with the decisions and attitudes of the professionals. The direct and implied criticisms of parents by the professionals underscored a pervasive absence of empathy with the parents and resulted in further alienation and polarisation.

This is evident in the parents' failure to achieve a voice in the processes they encountered, irrespective of the means by which interaction was initiated.

There are clear overlaps and interactions in the effects of the professionals, the legislation and its operationalisation, all of which must be added to the public faces of the parents in order to build a more accurate and comprehensive understanding of the current conditions of parenting *at risk* children and young persons. There is also evidence of a demonstrated tendency for the professionals to adopt a negative perception of parents. While the nature of their work can explain a degree of caution in their approach to parents, it cannot explain the disregard and direct criticisms which the parents encountered. The manner of the Act's implementation and the actions and attitudes of the professionals are also influenced by prevailing ideology, economic policy, social perceptions of parents and parenthood and the priority attached to each of these factors. These aspects are the products of history. An appreciation of their development is a further necessary component of a fuller understanding of the current conditions of parenting.

### ***The historical dimension of child welfare***

The contemporary landscape within which parents, children and the state interact is considerably more complicated than that which existed in the mid-nineteenth century. Many of the issues currently complicating the nexus of parent, state and child were non-existent or unconsidered for much of the intervening one hundred and fifty years. Viewing developments related to child welfare from a parental perspective assists in understanding the current position and public personae of parents. In the course of the period in question children have advanced from a position of near invisibility to one which gives paramountcy to their interests. In tandem with their ascent, parents have been relegated from an early position of dominance to one in which dominance is regarded as deviant. Throughout this process of change the state has assumed increasing power over the parent-child relationship, which is now policed and governed by the state.

Initial consideration of children by the state was prompted by the desperate plight of some children - vulnerable members of the community who had no control over the conditions of their existence. Characterised first as chattels of their parents and then as protected persons, notions of children in the early periods evoke images of victims who require the restoration of human dignity, while parents evince images of dominance and

foreboding, of an assumed superiority but an actual moral inadequacy. The plight of the children is first ascribed to the biological inferiority of their parents and later to their lack of skills. The state, though initially largely uninvolved, is foreshadowed as being the means by which the victims can be delivered from servitude, displaying an increasing readiness to intervene within the family and to look towards the role of other family members in the plight of the child. It is on this basis that the nexus of parent, child and state that persists to the present day was established. The effects of war and disease engendered a consciousness of children as social capital and a sense of collective responsibility for their future value to the community. State assistance in the nurturing of children necessarily entailed an acceptance of decreased parental power and increased state intervention and control. With this, the state assumed an explicit role in the socialisation of children and an increasing capacity to define the requisites of good parenting. The state's definition of these requisites was informed by a new appreciation of the expert skills of science and exemplified parenting as a skilled and complex task, requiring the advice and support of experts and professionals.

The image of the child as social capital continues to contain connotations of the child as a chattel, though ownership is now contested with the state. With parents regarded as risks to the realisation of the full potential of the developing asset, however, the relative power of the parties contesting the territory is changed considerably. The boundaries between the private and public spheres became increasingly blurred as the state's intervention became more extensive. While the image of parents is gradually undermined by the loss of their assumed competence, a more positive perspective of children, which is connected with potential and the reaping of rewards in the future, is fostered. As the psychological dimension entered official consciousness, nurturance and intervention were guided by the accompanying theories. The importance of happiness and fulfilment during childhood was added to the range of factors which would ensure a successful return on the investment in childhood. There were significant changes in the practices of those involved in child welfare, and in the value system of post-war society as compared to the previous period. The child-centred approach of psychotherapy was adopted by child welfare practitioners, educationalists and the wider society.

The state's role was increasingly that of the therapist for the child, and the parents' position was ambivalent. At worst, their parenting efforts produced trauma which the child needed to be assisted in overcoming. The guiding state assumed the mantle of benevolence that once pertained to parents and the position of children began to assume

proportions reflecting the growing public consciousness of the civil rights movement. Parents became increasingly marginalised as emerging theories on parenting and human development further emphasised the effects of parents upon the child, creating an environment of suspicion and surveillance. It became even more difficult to distinguish the boundaries between the public and private spheres, though the boundaries between parents and children, and parents and the state had become increasingly marked. Added to this increasingly complicated landscape were the developing influences of the rights movement, signalled by debate surrounding the principle of the paramountcy of the best interests of the child. Equality between parents and their children was increasingly promoted and supported by state agents and associated professionals, based on notions of the family as a democracy. Statutory recognition of the participation rights of children and young persons was established in the 1982 amendments to the Children and Young Persons Act 1974, with the principles of voluntariness and participation. The influence of psychotherapy was evident in the principles of normalisation and localisation and the therapeutic discourse was established as the framework through which the family, parents and children were understood, with the child as the focus. The 1982 amendment's principles in favour of the family group were not equivalent to the empowerment of parents, however, merely reflecting a belief in the superiority of a family, rather than institutional setting. While advocacy for continuing democratisation of the family persisted, the professionals were less enamoured of proposed changes to the legislation which would diminish their power. The reform of the 1974 legislation was marked by the professionals' struggle to retain control, arguing that proposed changes were impractical in terms of time, continuity and accountability. The reform process was also marked by a multiplicity of opinions in the area of child care, protection and control as the protective child rearing theories of psychotherapy competed with notions of children's rights and more traditional approaches to parenting. The new legislation (1989) retained primary responsibility for child welfare with agents of the state, though their power was tempered by a new ethos promoting family empowerment and decision making. The influence of the children's rights movement was evident in the provisions of the Act and prompted amendments in 1994 relating to the paramountcy principle and strengthening children's rights during interactions with the police.

The extent to which family empowerment is effected by the legislation is dependent on its detail and its operationalisation, as outlined above. The manner in which the legislation is operationalised is dependent on prevailing attitudes and beliefs, which are

informed by historical developments in the child welfare sector. The history of the sector demonstrates the elevation of children from an initial state of negligible consideration to a state of consideration as individual possessors of rights. The elevation was achieved through increasing state intervention and accompanied by the professionalisation of child rearing along with the privileging of expertise. The initial understanding of biological parental deficiencies as causes for the plight of some children was modified in various ways as the development of the child welfare sector progressed. The role of the parents as the most likely cause of problems has never been absent from official understandings of child welfare. As a consequence the history of the sector demonstrates an incremental and cumulative erosion of the respect, authority, esteem and beneficence - the *mana* - attached to parents of generations past. Parental status and *mana* were diminished in both the public and the private domains, which became increasingly intermingled. The child became contested territory, though the contest was for power rather than responsibility. The theories and attitudes of the child welfare sector both informed and were informed by beliefs and attitudes in the wider society. The transitions occurring in the sector were a reflection and a component of wider changes concerned with social values, ideology and democracy. The continuing erosion of parental *mana* is evident in recent initiatives established to ensure continuing protection of children, young persons and their rights.

### ***Advances in ensuring protection and autonomy***

A purposeful consideration of children's rights is increasingly evident in the governance of the parent/child/state nexus. Aspects of the children's rights movement (notions of equality, for instance) are possessed of an implicit challenge to the role and status of parents and are implicated in the continuing erosion of parental *mana*. A children's rights approach encompasses an emphasis on equality, which requires symmetry in the parent-child relationship and a democratic family structure, and autonomy, which alters the power structure within the family.

Inherent historically in notions of rights are notions of the oppressed and the oppressor - children and parents respectively. Concepts of both rights and equality foster an intrinsic demonisation of parents by virtue of the perceived deviance of asymmetric relationships and the role of the oppressor. This demonisation is left unanswered in the public domain and becomes a further complication in the private domain. The high value attached to autonomy by the rights movement reinforces the understanding of asymmetry as deviant and promotes a perception of inevitable competition between

parents' rights and children's rights. The legal ascription of rights to children and young persons changes the relationships between individuals and between individuals and the state and some of the changes have produced tensions not previously part of the largely ungoverned parent-child relationship. The parents' perceptions of the extent to which this occurs are distorted, however. In practice, many of the changes do little more than legally codify existing relationships and have little practical impact on most parents. Since the interests and wellbeing of children and young persons are the focus of both parents and the legislation, the promotion of children's rights need not affect parents negatively to any substantial degree, except in as much as the concepts themselves act to undermine parental *mana*.

Perceptions of a conflict between parents' rights and children's rights rest on confusion surrounding the role of the state. While the state functions as a protector of children's rights, it also functions in a contradictory capacity as a protector of their physical and emotional wellbeing. The protective role of the state frequently requires practices contrary to the children's rights ethos. In seeking to establish a legislative balance in its dual roles of nurturing and protecting, while also ensuring adequate autonomy and participation by children and young persons, the state is replicating the dilemma traditionally faced by parents in the private domain and seldom publicly acknowledged as inherently contradictory. The conflict between protection and autonomy, between the liberty rights and claim rights of children and young persons is not new and is not dependent on the existence or otherwise of statutory rights for children, though the state's role has added complications to successful negotiation of the territory.

The entry of the state into the private domain of the family necessarily changed the balance of power, which became subject to triangular contestation with the advent of children's rights. Greater relative power has accrued to the state over time, producing a tension not previously extant in the family domain. While parents have retained general responsibility for the care and custody of their children over time, the relative power of the state tended to fluctuate as policy was developed and implemented, though the general tendency has been for an increasing role for the state. Problems arise in those instances where an imbalance exists between the rights and responsibilities of the respective parties. This circumstance is best demonstrated through the means by which children's rights are given practical expression. Primary among the measures instituted as a means of ensuring and promoting children's rights is the establishment of the Office of the Commissioner for Children. The establishment of the Office under the 1989 Act

(s410) effectively provided a statutory advocate for children. Since its inception, the Office has concurrently raised both its own profile and that of children's rights. The Commissioner has become an official spokesperson for children's rights and the perspective of the Office encompasses a view of parents as bound by duties rather than empowered by rights. This view generates responses to parents that differ significantly from those that would ensue from a rights-based perception of parents. The increasing focus on rights necessarily reinforces the impact of the negative aspects of the rights movement on parental *mana*, while at the same time fostering an increasingly legalistic approach. Parental responsibilities, rather than rights, typify a legalistic approach and this is readily apparent in sexual health matters.

Children or young persons have autonomy in sexual health decisions, contingent upon their ability to demonstrate sufficient understanding. The results of their autonomous decisions (depression or pregnancy, for example) remain part of their parents' obligations as parents. An element of continuing responsibility pertains to parents despite increasing rights for children. Their offspring's legal capacity to make some decisions at an early age shifts the public perception of the cause of the problem and allows the conflict to be viewed publicly as one of competing rights. The problem more correctly relates to the imbalance of rights and responsibilities, most particularly the apportioning of responsibility. Continuing responsibility following the autonomous decisions of their offspring is an historic component of the parenting landscape, however, and, although frustrating at times, is not changed substantially by legal changes. Again, the extent to which it is problematic is dependent on context. Other aspects of the health arena demonstrate a further, more troubling complication for parents and their children. While retaining responsibility for their offspring, their rights to make health decisions for their offspring are contingent upon a concurrence between their decisions and the views of the professionals. Increasingly, and despite the family empowerment rhetoric of the child welfare sector, the decisions of both children and their parents on health matters are being challenged by the professionals, casting doubt on the empowerment of both parents and their children.

Advancing the protection of children has been less complicated for the state than advancing their rights. For parents, complications have continued. Efforts to combat child abuse presented a challenge to parental *mana* that was significantly more insidious than those attached to challenges implicit in the children's rights movement. Campaigns to combat child abuse identified parents as likely enemies, making explicit the previous



implicit perception of parents as threats in earlier epochs. The campaigns also enlarged the range of people involved in the surveillance of parents from the previous array of official agencies and professionals to include friends, neighbours, relatives and children. The negative and suspicious conception of parents was thereby extended beyond the realms of state agencies and professionals and into the wider society, including the world of children. The accompanying erosion of parental *mana* is evident in the challenging of parents' actions both in the private domain by their children and in the public domain by professionals and members of the general public, all but obliterating the previous assumption of parental beneficence. These negative consequences for parents were not an intended outcome of initiatives to reduce child abuse. The effects are seldom acknowledged and addressing them is therefore largely unconsidered. Child abuse initiatives continue to present little evidence of a consideration of possible detrimental effects on parental *mana*, suggesting that the downward spiral will continue.

While the influence of advances in the interests and rights of children need to be added to the understanding of the private worlds of the parents of *at risk* offspring, it also needs to be considered within the prevailing social context. Clearly the extent of the erosion of parental *mana* caused by child welfare initiatives will be eased or exacerbated by more general social conditions, as each has the capacity both to be informed by, and to inform the other.

### ***The changing social context***

Current New Zealand legislation was implemented in an ideological context considerably different from that in which the 1974 Act was implemented. While the context of the earlier legislation was imbued with notions of collective responsibility and a welfare approach to youth justice, the 1989 Act was implemented amid the shift to a New Right ideology in the political arena, following the election of a National government in 1990. The new ideology diluted notions of collective responsibility, stressing instead the virtues of individual responsibility, user pays, a minimal state and monetarist economic policy. Linking problems to personal failure rather than social causes, the state underwent an ideologically driven restructuring aimed at reducing dependency and minimising state apparatus. Within the restructured state, changes in the delivery of social services involved competitive tendering processes and an emphasis on managerialism and fiscal rationality.

The imperatives of a reduced state and individual responsibility contributed to the curtailment of residential and fostercare services and prompted further changes in health and education, which devolved responsibility, though not always power, to individuals and local communities. The consequences of restructuring of the state sector resulted in burgeoning unemployment and this, combined with the social security costs of an aging population, prompted widespread reductions in social assistance. The state withdrew from intervention in multiple arenas, premised on the advantages of market solutions, and dependence on the state was actively discouraged. The family empowerment ethos of the 1989 Act fitted well with the new ideology, despite the emphasis on families rather than individuals, since the objectives of the Act assisted in minimising the role of the state and transferred responsibility to families and local communities.

For parents, the pertinent effect of the Act was the promise of a reduction in the power of the professionals and the increasing encroachment of the state into the family domain that is evident in previous periods appears to be reversed to some extent. The effects of the New Right economic policies, however, seriously challenged the capacities of families and communities to meet the challenges attached to their empowerment. The rhetoric of empowerment was not matched by the provision of services and resources to enable families and communities to meet their responsibilities, while at the same time the widening poverty gap served to further undermine family empowerment. State expectations of families in regard to health and education assumed sufficient fiscal and administrative abilities to fulfill their responsibilities and in welfare similar expectations applied.

The closures of residential and secure facilities and the adoption of a last resort policy left families and communities bereft of alternatives for accommodating delinquent, disturbed or dangerous children and young persons. Eventual recognition of the inadequacy of residential services prompted the introduction of a new strategy to increase facilities, though the time frame involved in their construction does little to assist families currently experiencing problems. In-family solutions have not been equivalent to family empowerment. The changes have effectively apportioned responsibility to families and communities, but the move is not concerned with parents' rights and has not been matched by the provision of the means to meet these responsibilities. In the absence of adequate resources by which to meet their responsibilities, families have effectively been further disempowered.

While intervention by the state was actively discouraged by New Right ideology, no similar constraints applied to surveillance by the state. Electronic databases and information sharing between state agencies and departments continued to allow tighter control and wider monitoring and in child welfare, the state's surveillance was expanded by publicity campaigns, such that surveillance of parents became the duty of all citizens. The requisites of good parenting continued to be prescribed by the state and the shadows cast on parents by initiatives such as children's rights and child abuse campaigns were further darkened by the moral conservatism reflected in the New Right's appropriation of the debate surrounding the demise of the family. While questions of family form no longer predominated the rhetoric, the alleged demise of the values associated with the nuclear family became the New Right's explanation of the cause of prevailing social problems, both here and overseas. The accompanying rhetoric's inherent criticism of parents continued the historical erosion of parental *mana* by associating concerns for a perceived decline in values with the family. In positing the blame with families (parents) the family values campaign struck a popular chord with the simple remedy it offered to the prevailing social malaise. It also facilitated an easy transition of the tendency to blame parents into the public sphere.

The criticisms of parents on which the family values platform rested generated negative perceptions of parents, reinforcing the historic erosion of their *mana* and encouraging the development of a social context in which continuing erosion of parental *mana* is inevitable. The tendencies of the child welfare sector were replicated in the wider society as commentaries on a wide range of topics came to include criticisms of parents as a matter of course. While juvenile crime was a logical catalyst for criticism (though the role of parents as a causal factor is a neither necessary nor sufficient condition), New Zealand politics and media echoed with assertions premised on the assumption that numerous and divergent social problems were directly related to deficient family functioning. Poor perceptions of parents permeated the social context in general, reflecting an attitude to parents that was at best dismissive, at worst, derogatory and allowing regular negative constructions of parents as inadequate and morally suspect. These mediated images of parents, characterised by the accounts that open this thesis, both reflect and inform existing poor perceptions of parents, perpetuating the downward spiral.

### ***The cumulative effects of context***

The context - historical, ideological, social and economic - which affected the parents' experiences is not immediately apparent in either the public or the private faces of the

parents, though its traces are visible. Recourse to their public faces provided scant indication of the forces which allowed and provoked the construction of the negative images conveyed, except in as much as the negative construction exists. By contrast, the parents' stories bore deeper traces of the effects of contextual factors and provided evidence of their manifestation within the parents' lived experiences. Together and individually, the contextual factors served to determine the efficacy of the parents within the public and private realms. The overlaps and interactions of the contextual factors are paralleled in the dynamics of the themes, since the themes are integrally bound to context. The economic context directly affected their own efforts in the private domain, but also determined the level of assistance available in the public domain. The ideological context required they take responsibility for their offspring, while the economic context worked against this. Ideology at the level of child welfare invoked notions of proper parenting informed by psychotherapy and children's rights, both of which had unintended detrimental effects on parental *mana*. The current context resonates with the effects of decades of official perceptions of parents as causes of problems and this is reinforced by the promulgation of a similar perspective in the public arena through the association of family dysfunction with social problems. These cumulative contextual effects are manifested in the behaviours and attitudes encountered by the parents in their quest for assistance. The attached low valuation of parents is testament to the erosion of parental *mana* to a point which seriously compromises their ability to engage in effective parenting of *at risk* offspring.

The parents' stories speak of disempowerment in regard to their children. Their experiences within the child welfare sector confirm this disempowerment. The intertwining of context and themes is evident in their inability to access official assistance in the first instance and in their inability to influence the professionals with whom they interacted. While the effects of eroded *mana* (which results from historical and current social factors) permeate all their interactions, these experiences also reflect the influence of resources and the continuing isolation and impotence of the parents. Ignorance, impotence and eroded *mana* are evident in their inability to access information and in the propensity of the professionals to impart incomplete or inaccurate information. *Mana* is again implicated in the professionals' responses to the opinions and concerns of the parents and in the criticisms of parents (implied and explicit) emanating from the professionals. It is evident in their continuing ignorance regarding their rights and in their continuing perception of an essential conflict between children's rights and parents'

rights. While resources are implicated in their continuing isolation, despite contact with the professionals, and their continuing impotence on the same account, eroded *mana* accounts for those aspects not adequately explained by resource constraints.

Resources are a major factor in the frustration of parents and professionals alike when prevailing conditions preclude effective assistance, though legislative factors are also pertinent. The focus on children, rather than family, and the ensuing isolation and impotence of parents is evident in the ready response of the professionals to children's approaches and the reverse response to parents' approaches. *Mana*, ignorance and impotence feature in the assumption of superior decision-making by the professionals. Context and themes overlap and interact to extend the parents' struggle beyond that of finding ways to assist their *at risk* offspring to include a struggle with the very professionals from whom they sought assistance. With their opinions discounted and their legitimacy discredited, the parents were effectively disempowered and marginalised. The outcome for these families is far removed from the supportive environment intended by the legislation and the parents' assessments of the professionals, systems and processes they encountered reflect this outcome. Accordingly, along with their extreme frustration was a troubling foreboding in regard to their futures.

This thesis contends that the current legislation and, to a greater extent, its operationalisation resonate with the effects of an historical and continuing (though largely unintended) erosion of parental *mana* in policy, practice and the wider social context. Attempts to ensure better treatment, higher status and greater rights for children and young persons have fostered a concomitant redefinition of the respective rights, duties and images of parents, children and the state. The resulting devaluation of parents is associative rather than intentional, but its effects are cumulative and continuing. Parents have been progressively problematised, marginalised and disempowered. The combination of historical change and negative constructions of parents have affected parental *mana* such that they no longer have the means to meet their parental obligations adequately.

### ***Future directions***

The image of parents generated by the two accounts that open this thesis is not a positive one. The behaviours described in the accounts are not the behaviours associated with common understandings and expectations regarding the functioning of a healthy family. The images constructed by the accounts reflect the public faces of the parents of

*at risk* children and young persons, a face that differs significantly from the private faces of the parents. The addition of the private world of these families to the images fostered by the public accounts has enabled a considerably more positive view of the families. The personal stories of the parents also provided an insight into the challenges and impediments facing families attempting to parent *at risk* offspring. These challenges occurred in both the private and public domains, the boundaries of which have become increasingly blurred over time. Adopting an ethnographic approach has allowed the representation of the parents' socially relevant reality and enabled the recognition of systematic, socially unnecessary distortions in the context in which the parents' experiences are embedded. The analysis has intentionally adopted a parental perspective, which is particularistic and deconstructive, in order to relate the subjective accounts of the parents to the objective social structure in which they work and live. Although this inherent bias is intended to serve the parents in an immediate and practical sense, it is also intended as an addition to existing sociological enquiry into the world of childhood and the family. Analysis of the experiences of the families has enabled the generation of a theory that is grounded in the actions, interactions, definitions, attitudes and feelings of the parents.

In both the public and private spheres the lived experiences of the families have been testament to the fragility of parental *mana* in the current social context. The prevailing condition of parental *mana* was reflected in the frequent inefficacy of the parents within the processes that they encountered. Their negative experiences are better understood in context - a context subjected to critical analysis, again from a parental perspective. While this has required examination of the current operation of the child welfare sector, the sector also needed to be considered within its wider context. Both the child welfare sector and the current social context, in turn, are better understood within their historical context, since this enabled an examination of the historical underpinnings of the parent/child/state nexus and the social context within which it has developed. The synthesis of the interview data with the critical analysis has allowed the development of a social, as opposed to psychological or interpersonal, explanation of the problems encountered in the parenting of *at risk* adolescents. While the parents' experiences gave practical expression to the individual manifestations of the consequences of changes affecting the child/parent/state nexus, the critical analysis provided greater credibility to the theory grounded in the interview data. The results of this process provide some

indications of a viable way forward in assuring the effective parenting of *at risk* children and young persons.

There are two dimensions which must be considered here, one concerned with potentialities generated by this research, the other relating to the need for further research. The former is presented with an acknowledgment of the need for the latter, in order to further substantiate the validity of the suggestions here. None the less, the motivation of both the researcher and the research participants was the possibility of alleviating the distress of parents struggling with *at risk* offspring. Completion of the project therefore requires that its findings be instrumental in determining the means for achieving this purpose.

It is clear that the most cogent factor affecting the parents' experiences is the low valuation currently attached to parents. Their experiences and interactions would alter significantly had a high valuation been attached to parents. A high valuation of parents is not equivalent to assigning superior rights or power to parents. It does not change their legal status or that of children and young persons or professionals. It would, however, empower parents. The lack of power attached to their current position is reflective of that attached to all who are problematised and marginalised. While the current legislation is imbued with a philosophy of family empowerment, it loses much in the translation into practice. Removing parents from the margins, perceiving them in practice as solutions rather than problems is fundamental to resolving the problems experienced by the parents in this research. This requires the restoration of the legitimacy of parents and the validation of their concerns, opinions and contributions.

The process of devaluation has been gradual, insidious and pervasive, but it affects the parents' interactions in both the public and private spheres. The erosion has also been unintended. Arresting and reversing the erosion will require intentional, deliberative action. Changing perceptions in the wider society will be a long and complicated process, reminiscent of the gradual process of erosion that has taken place. Changing perceptions in child welfare need not be so prolonged. Given that this is the arena in which the erosion of parental *mana* was initiated and that it is the arena that most directly affects the parents of *at risk* children and young persons, it is the sensible arena in which to begin the resolution of the problem. The process of change will require a shift in the perceptions of the sector and the theories which underpin them. Continuing developments in research and theory are prerequisites for effecting such a change.

There is evidence of some movement in this direction, though it is not directly concerned with parental *mana*. Promoting child advocacy which adopts a feminist perspective, Jones and Basser Marks (1999) note the unnecessary dichotomy that has been perceived to exist between children's rights and parents' rights and argue that UNCROC is more productively viewed as providing a framework which will guarantee dignity and respect for all members of the family. Their approach emphasises relationships and the interconnectedness of individuals, an understanding also reflected in the work of Mayall (1996, 1999). Mayall also notes that the predicted century of the child (Key, 1909) instead became the century of the child professionals, a broad array of people concerned to monitor and modify childhood and the behaviour of parents, particularly mothers (Mayall, 1999). Although her concern focuses on the failure of the professionals to treat children as subjectivities, she proposes that this be addressed through the notion of reciprocal relations. Drawing on the work of O'Neill (1994) Mayall develops notions of interdependence in relation to O'Neill's proposal for a covenant society. Based on the principle of reciprocity, a covenant society requires the enactment of responsibility by children to parents and *vice versa* and further development of the concept offers some promise. There is a danger, however, that this process too could be captured by legalism and subjected to its inherent dichotomies and conflicts. None the less, the works reflect a consciousness of the need to move beyond conceptions of a conflict between children's rights and parents' rights. It is also clear that many of the concerns of child advocates are similar to the concerns outlined in this thesis - the lack of resources, the power of the professionals and the failure to accord validity to the views of the subject of the advocacy, for example. This demonstrated congruence of interests may provide a basis for going forward and in the child welfare sector the appointment of parent advocates may provide the most sensible means for beginning the process.

At the policy level it is imperative that the policy process includes the monitoring of the impact of policies on the relationships within families and on the relationship between families and outside groups, as advocated by Koopman-Boyden (1990). Further to this, the impact of policies on parents as parents, rather than as components of families must also be monitored. The consideration of a parental perspective is also required in the policy formulation process, from which parents have been notable for their absence to date. Despite the increasing governance of the parent-child relationship and the growing propensity for the state to prescribe the standards of proper parenting, policy



formulation has occurred with little regard for a parental perspective, reflecting the general absence of a political voice for parents. Advocacy for parents must therefore also extend into the political arena if the problems experienced by the parents in this research are to be addressed. The increasing invisibility and marginalisation of parents within the child welfare sector and the policy process is replicated in the academic arena.

As noted in chapter one, there is no established body of work which examines the impact of social policy, social context or social history on the tasks of parenting, leaving parents at best marginalised, but more commonly simply subsumed as a component of family and rendered invisible. The inseparability of the components of family requires that research on parents is added to the body of work relevant to the child welfare sector if a comprehensive understanding is to be achieved. The conditions of childhood cannot be adequately understood in the absence of an understanding of the conditions of parenthood. Developing an awareness of the overlaps and interactions between the two will further enhance understandings of family.

During the course of this research it has been evident that there are many aspects of the child welfare sector that merit further investigation. Some have been noted within this thesis - a feminist enquiry into the increasing intervention of the state, concomitant to the reduction of paternal rights, for example. Many components of this thesis warrant more expansive or more specific research. A larger project exploring the lived experiences of families of *at risk* children and young persons will assist in consolidating or refuting the findings of this project. An observational study of interactions with the professionals will assist in identifying prevailing attitudes within the sector, while comparative research might be used to determine regional variations in practice. Proposals for monitoring the outcomes of cases under the current legislation (Maxwell, 1995b) could be extended to include a parental perspective, along with research on families not accommodated within CYF. Monitoring outcomes also provides a means for measuring the relative power of the parties and the effects of resource constraints.

The knowledge base existing amongst parents and their children also warrants further investigation, since ignorance was a problem both initially and throughout the experiences of most of the parents. The singular exception to this suggests this is an area rich in potential solutions for a large part of the problems encountered. In light of the corrosive effect of child abuse publicity campaigns on parental *mana*, there is merit in examining the efficacy of these campaigns in combating abuse. Similarly, the problems engendered by increasing legalism suggest the need for an examination of the suitability

of a legalistic approach to the family domain. Ascertaining the current status of parental *mana* in the wider society could be achieved by more extensive research into mediated images of parents.

Given the dearth of literature and research on parents from a sociological perspective, the aspects noted here as requiring further investigation represent only a fraction of the research that is needed. The parenting of *at risk* children and young persons is just one dimension of the parenting task. It is a dimension that is useful in determining aspects of the current conditions of parenthood that may be problematic to a greater or lesser extent for all parents, however. Although a sense of urgency pertained to the completion of this project in the interests of relieving the distress of parents currently struggling with *at risk* offspring, the benefits accruing from a sociological understanding of the conditions of parenthood are not confined to these or any other parents. The interconnectedness of the conditions of parenthood and the conditions of childhood is such that an appreciation of the former enhances the appreciation of the latter. In as much as this is the case, this thesis honours the bonds between the parents and their troubled and troublesome children, ever cognisant that “our children are the messages that we send into a world that we will never see” (Cumming in Syme, 1995).

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## **Television**

TVOne, 22 July 1999 "Report on Driver Simulation for Teens" on Breakfast

TV3, 28 July 1999 "Teens: Driving Parents Crazy" on Inside New Zealand

## Appendices

### INTERVIEW SUBJECTS' INFORMATION SHEET

DEPARTMENT OF SOCIOLOGY  
UNIVERSITY OF WAIKATO

PROJECT : PARENTAL RIGHTS AND RESPONSIBILITIES  
RESEARCHER : Maxine M. Campbell  
Contact Phone : 0-7-8562889, extn 8274  
Home Phone : 0-7-8547103

SUPERVISORS : Dr Patrick Day, Dr Pahmi Winter

This research project is seeking to interview parents of children who are considered to be "at risk". These children will not necessarily have come before the Courts, nor even broken the law, but are likely to have come to the notice of police or social agencies as a result of anti-social or self-endangering behaviour. For example, they may have run away from home, be habitual truants, or have been found on the streets late at night at a young age. Others may have committed petty crimes - minor thefts, graffiti, or driving offences, and had these matters resolved without the need for a Court appearance. Still others will have committed more serious offences and come before the Court.

There has been much work done to improve the status and treatment of children in New Zealand in the last century, particularly in the last decade. There has been no corresponding work undertaken with a view to determining the effects of improved children's rights on the lives of their parents. These effects are likely to be most keenly felt in instances in which children flout authority of any kind. The purpose of the interviews is to record the experiences of the parents of such children in their attempts to fulfill their responsibilities as parents.

The research seeks to establish the degree to which the current legislation and the practices of the various welfare and helping agencies helps or hinders parents in fulfilling their parental duties and responsibilities. The researcher hopes that, in presenting your experiences, there can be some acknowledgement of any difficulties you might face in your experiences with these agencies, and work can begin on finding ways to overcome these difficulties without sacrificing the current legislation's central objective of protecting our children.

It is important that you understand that it is not the purpose of the research to try to establish the reasons for your child engaging in "at risk" behaviours at a personal level. These will no doubt be many and varied, and may well be better suited to psychological analysis. It may transpire, however, that the data collected highlights some *social* variables that might influence behaviour and outcomes. Social variables are those factors that are beyond the control of the individual to a large extent - for example, underfunding of the helping agencies or media representations of delinquency.

Nor is there any intention to assess or evaluate parenting skills, beyond the need to gain the subject's assurance that abuse and/or neglect are not a feature of the family environment. The point of the research is to establish the appropriateness and effectiveness of the law, and its implementation by the various agencies, in helping families who find themselves in situations such as yours.

It is intended that initial interviews will last between one and two hours, and that there will be at least one follow-up interview of shorter duration. The interviews will take place at a time and venue suitable to you and everything you say will be confidential. The interview will be tape recorded, but only the researcher and her supervisors will have access to the tapes.

A written transcript of the recording of your interview will be made and this transcript will have the same access limitations as the tapes themselves. When the research is written up all names will be changed and the identification of specific individuals will not be possible. If you would like to be sent a summary of the findings of the research, or any relevant information that may help you as a parent, this can also be arranged.

Although the interviews are essentially an opportunity for parents to present their own experiences, the interviews will follow a basic structure. This will focus on questions about your experiences with legal and welfare agencies, with other people or organisations with some degree of authority over your child (the school, for example), and with people or organisations offering support to you as a parent. You are free to refuse to answer any question that you are not comfortable with, and may withdraw from the project at any stage, with any tape recording being erased on request.

It is important that you understand exactly what your participation in this project requires. If you are unsure about any aspect of it, please ask any and as many questions as you need. You may want to talk it over with family or friends before you decide. The researcher will ask you what your understanding of the project and your participation in it requires before you sign the consent form. Do not sign if there is anything that you do not understand. If you do sign, and later change your mind, you are free to withdraw from the project with no explanation required.



## CONSENT FORM

DEPARTMENT OF SOCIOLOGY  
UNIVERSITY OF WAIKATO

PROJECT : Parental Rights and Responsibilities  
RESEARCHER : Maxine M Campbell

### Researcher's Copy

I have read and understood the information sheet explaining this research project. I have been able to ask questions and have been satisfied by the answers to them. I understand that I may withdraw from the project at any stage before data collection is completed without an explanation being required.

I agree to take part in this research.

Signed :

Name of participant :

Date :

## APPLICATION FOR HREC APPROVAL

Applicant	Maxine M Campbell
Department	Sociology
Project Status	DPhil project
Funding	Personal and Department
Supervisor	Dr Patrick Day
Project Title	Parental Rights
Description of Project	Appended

### ETHICAL CONCERNS

These are addressed in the attached proposal and appear here in summary form only.

**Access to participants:** as the proposed research is of a qualitative nature, vast numbers will not be involved, and concerns regarding the representativeness of the sample are of less relevance, though not ignored.

**Informed Consent:** to be obtained from each interview subject; information sheet and consent forms are attached to the proposal.

**Confidentiality:** assured to all participants at all stages of the project; all informed of the need for my supervisors to have access.

**Potential Harm to Participants:** possible distress at recalling and relating difficult incidents; perhaps balanced by the possibility of a therapeutic effect of same.

**Participants' Right to Decline:** clearly stated in the information sheet and consent form.

**Participants' access to information:** findings from the research and information relevant to the topic will be forwarded to those who indicate this preference.

**Use of information:** the data gathered during the research is to be used for my Doctoral thesis.

**Conflicts of interest:** none.

### ETHICAL STATEMENT

It is intended that the research proposed here will be undertaken in accordance with the principles and procedures set out in the Code of Ethics of Sociological Association of Aotearoa (New Zealand). The two guiding principles for the duration of the project will be:

- (a) unceasing vigour in assuring the rights of the research participants;
- (b) maintenance of the highest professional standards at all stages and in all aspects of the project.

## Interview Questions

### Parent

Name

Ethnicity

Age	25-35	35-45	45-55	55+	
Income	<20k	20-30k	30-40k	40k-50k	50k+

Single Y/N

Gender M/F

Support group affiliation

### Child

Name

Age

Gender

Siblings

Current domicile

## Background

Has xxx ever come to the notice of any of the “helping” agencies - eg CYPS, Police, Truancy Service, School counsellor?

At what age did this occur?

Did you have any concerns regarding xxx’s behaviour prior to this?

Did you seek assistance with this?

What response did you get?

## Initial cause

What caused xxx to come to the notice of the police etc?

At what stage were you brought into the matter?

How was the initial approach made?

How did you respond?

What happened next?

Did you have any input into this decision?

How were your views/suggestions received?

Were you informed of your rights, your child’s rights, and the likely developments/consequences? By whom?

Was there any sort of parent support/advocate present, available or suggested?

Did you feel supported in your parenting by the steps taken and the officials concerned?

Did you seek legal advice?

Were there aspects that you felt were inadequately addressed or ignored?

Were there aspects that you felt were particularly well addressed?

## **Evaluation of the Child**

Did xxx undergo a psychological or psychiatric evaluation?

Were you involved in this at any stage?

How were your views/suggestions received?

Did you feel supported in your parenting by the steps taken and the officials concerned?

What was your impression of the process?

Were you privy to the resulting reports?

What was your impression?

## **Family Group Conference**

Was a Family Group Conference convened?

Where was it held?

Did you have the support of extended family?

Were you asked for a list of contacts of extended family?

Did you intimate that you would prefer that some not be contacted for any reason?

Was your advice followed?

If not, what was the result?

What "official" personnel were present?

Did any of these represent/support you?

Who else was present?

Did any of these represent/support you?

Did you feel supported in your parenting by the steps taken and the officials concerned?

Did anyone offer explanations for xxx's behaviour?

Who, and what explanation was offered?

What was your impression of this process?

What was the result of the FGC?

Did you have any input into this decision?

How were your views/suggestions received?

Were you satisfied with the result?

Were there aspects that you felt were inadequately addressed or ignored/ well done?

Did you feel supported in your parenting by the steps taken and the officials concerned?

## **Youth Court**

Did xxx ever appear before the Court?

What was the charge?

Who gave evidence?

Was any evidence given as to your role in the events?

Who provided this evidence?

## **Youth Court ctd**

Were you involved in the preparation of this evidence?

How were your views/suggestions received?

Were you happy with what was presented?

Were you called to give evidence?

Were you able to challenge any of the evidence presented?

Did you feel supported in your parenting by the steps taken and the officials concerned?

Did you have any input into the Court process? (Victim impact, psych or probation reports)

Were there aspects that you felt were inadequately addressed or ignored?

## **General**

Were there ever occasions when you were informed of events “after the fact” eg Independent Youth Allowance, abortion, absconding, medical/psych evaluation, prescription of medication?

What was your greatest source of advice/support?

What is your over-riding impression of :

Police

CYPS staff

Truancy officers

Courts

Psychologist

Support agencies

Do you see any improvements that might be made to the process?

What is the current situation with XXX?

Improved? \

Same?     why?

Worse?     /